



HRVATSKI SABOR

P.Z.E. br. 12

Klasa: 018-05/08-01/01

Urbroj: 65-08-02

Zagreb, 21. veljače 2008.

ZASTUPNICIMA HRVATSKOGA SABORA

PREDSJEDNICIMA RADNIH TIJELA

Na temelju članaka 137., 153. i 161. Poslovnika Hrvatskoga sabora u prilogu upućujem ***Prijedlog zakona o potvrđivanju Okvirne konvencije Svjetske zdravstvene organizacije o nadzoru nad duhanom, s Konačnim prijedlogom zakona***, koji je predsjedniku Hrvatskoga sabora dostavila Vlada Republike Hrvatske, aktom od 21. veljače 2008. godine uz prijedlog da se sukladno članku 159. Poslovnika Hrvatskoga sabora predloženi Zakon donese po hitnom postupku.

Ovim zakonskim prijedlogom usklađuje se zakonodavstvo Republike Hrvatske sa zakonodavstvom Europske unije, te se u prilogu dostavlja i Izjava o njegovoj usklađenosti s pravnom stečevinom Europske unije i pravnim aktima Vijeća Europe.

Za svoje predstavnike, koji će u njezino ime sudjelovati u radu Hrvatskoga sabora i njegovih radnih tijela, Vlada je odredila mr. sc. Darka Milinovića, ministra zdravstva i socijalne skrbi i Antu Zvonimira Golema. Državnog tajnika Ministarstva zdravstva i socijalne skrbi.

PREDSJEDNIK

Luka Bebić



VLADA REPUBLIKE HRVATSKE

Klasa: 018-05/04-01/09

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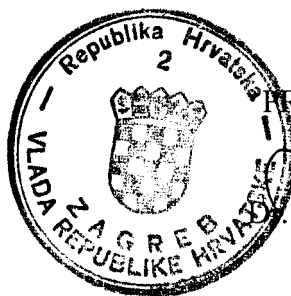
PREDSJEDNIKU HRVATSKOGA SABORA

Predmet: Prijedlog zakona o potvrđivanju Okvirne konvencije Svjetske zdravstvene organizacije o nadzoru nad duhanom, s Konačnim prijedlogom zakona

Na temelju članka 84. Ustava Republike Hrvatske, članka 129. i članka 159. Poslovnika Hrvatskoga sabora, Vlada Republike Hrvatske podnosi Prijedlog zakona o potvrđivanju Okvirne konvencije Svjetske zdravstvene organizacije o nadzoru nad duhanom, s Konačnim prijedlogom zakona za hitni postupak.

Ovim zakonskim prijedlogom usklađuje se zakonodavstvo Republike Hrvatske sa zakonodavstvom Europske unije, a budući da se radi o potvrđivanju međunarodnog ugovora, nije potrebna Izjava o njenoj usklađenosti s pravnom stečevinom Europske unije i pravnim aktima Vijeća Europe.

Za svoje predstavnike, koji će u njezino ime sudjelovati u radu Hrvatskoga sabora i njegovih radnih tijela, Vlada je odredila mr. sc. Darka Milinovića, ministra zdravstva i socijalne skrbi i Antu Zvonimira Golema, državnog tajnika u Ministarstvu zdravstva i socijalne skrbi.



PREDSJEDNIK

sc. Ivo Sanader

**PRIJEDLOG ZAKONA O POTVRĐIVANJU OKVIRNE KONVENCIJE SVJETSKE
ZDRAVSTVENE ORGANIZACIJE O NADZORU NAD DUHANOM,
S KONAČNIM PRIJEDLOGOM ZAKONA**

**PRIJEDLOG ZAKONA O POTVRĐIVANJU
OKVIRNE KONVENCIJE SVJETSKE ZDRAVSTVENE ORGANIZACIJE
O NADZORU NAD DUHANOM**

I. USTAVNA OSNOVA ZA DONOŠENJE ZAKONA

Ustavna osnova za donošenje Zakona o potvrđivanju Okvirne konvencije Svjetske zdravstvene organizacije o nadzoru nad duhanom sadržana je u članku 139. stavku 1. Ustava Republike Hrvatske (« Narodne novine», br. 41/01. – pročišćeni tekst i 55/01- ispravak).

**II. OCJENA STANJA I OSNOVNA PITANJA KOJA SE UREĐUJU
PREDLOŽENIM ZAKONOM TE POSLJEDICE KOJE ĆE DONOŠENJEM
ZAKONA PROISTEĆI**

Sukladno članku 12. Međunarodnog pakta o gospodarskim, socijalnim i kulturnim pravima, kojega je usvojila Opća skupština Ujedinjenih naroda 16. prosinca 1966. godine, svaki čovjek ima pravo na uživanje najvećeg mogućeg standarda fizičkog i mentalnog zdravlja.

Prema preambuli Ustava Svjetske zdravstvene organizacije, uživanje najvećeg mogućeg zdravstvenog standarda jedno je od temeljnih prava svakog čovjeka bez obzira na rasu, vjeroispovijest, političko uvjerenje, ekonomske ili socijalne prilike.

Polazeći od navedenih načela i s obzirom na činjenicu da je pušenje i izlaganje duhanskom dimu vodeći čimbenik rizika po zdravlje, koji uzrokuje gotovo 5 milijuna smrti godišnje, 56. Svjetska zdravstvena skupština je 21. svibnja 2003. godine (rezolucija WHA 56.1) usvojila Okvirnu konvenciju o nadzoru nad duhanom (u daljnjem tekstu: Okvirna konvencija). Cilj je Okvirne konvencije zaštita sadašnjih i budućih naraštaja od štetnih zdravstvenih, socijalnih, ekoloških i gospodarskih posljedica uporabe duhanskih proizvoda i izlaganja duhanskom dimu. Okvirna konvencija sadrži mjere usmjerene smanjenju potražnje i opskrbe duhanom koje će se provoditi na nacionalnim, regionalnim i međunarodnim razinama kako bi se sustavno značajno smanjila uporaba duhana i izlaganje duhanskom dimu.

Okvirna konvencija sadrži:

- mjere koje se odnose na smanjenje potražnje duhana, uključujući određivanje cijena i oporezivanje usmjereno smanjenju potražnje duhana kao i mjere koje se ne odnose na određivanje cijena, mjere zaštite od izlaganja duhanskom dimu, reguliranje sastojaka duhanskih proizvoda, obvezu objavljivanja sadržaja duhanskih proizvoda i emisije duhanskog dima, obvezu pakiranja i označavanja duhanskih proizvoda uz jasna i vidljiva zdravstvena upozorenja, edukaciju i izvješćivanje javnosti, zabranu oglašavanja, promidžbe i sponzoriranja, osiguranje stručne i ostale pomoći za odvikavanje od pušenja,

- mjere za smanjenje duhanske ponude kao što je suzbijanje svih oblika nedozvoljene trgovine duhanskim proizvodima, uključujući krijumčarenje, nedozvoljenu proizvodnju i krivotvorenje, zabrana prodaje duhanskih proizvoda maloljetnim osobama i podrška uvođenju gospodarski održivih zamjenskih aktivnosti,
- mjere zaštite okoliša kod uzgoja i proizvodnje duhana,
- mjere utvrđivanja odgovornosti,
- znanstvenu i tehničku suradnju i razmjenu podataka,
- institucionalno uređenje i financijska sredstva,
- rješavanje sporova.

Svrha je Okvirne konvencije zaštita sadašnjih i budućih naraštaja od štetnih zdravstvenih, socijalnih, ekoloških i gospodarskih posljedica uporabe duhanskih proizvoda i izlaganja duhanskom dimu određivanjem okvira za provedbu mjera nadzora nad duhanom koje će provoditi stranke Okvirne konvencije na nacionalnim, regionalnim i međunarodnim razinama kako bi se sustavno i značajno smanjile uporabu duhana i izlaganje duhanskom dimu.

Okvirna konvencija jest jedinstveni javnozdravstveni dokument na globalnoj razini usmjeren unapređenju zdravlja smanjenjem uporabe duhana i izlaganja duhanskom dimu te predstavlja skup međunarodnih standarda o cijenama i porezima na duhan, pakiranju i označavanju duhanskih proizvoda, edukaciji i podizanju svijesti javnosti u vezi sprečavanja i suzbijanja uporabe duhana, reklamiranju i sponzorstvu, nedozvoljenoj trgovini duhanskim proizvodima i zaštiti od izlaganja duhanskom dimu iz okoliša.

Okvirna konvencija stupila je na snagu 27. veljače 2005. godine nakon što ju je ratificiralo 40 država. Do sada je Okvirnu konvenciju potpisalo 168, a ratificiralo 152 države, od toga 23 država članica Europske unije. Prva Konferencija država stranaka Okvirne konvencije održana je u Ženevi od 6. do 17. veljače 2006. godine.

Republika Hrvatska postala je članica Svjetske zdravstvene organizacije 11. lipnja 1992. godine te je pristupom toj međunarodnoj organizaciji pristala promicati njene ciljeve, koji uključuju međunarodnu suradnju na području unapređenja zdravstva. Republika Hrvatska Okvirnu konvenciju potpisala je u New Yorku 2. lipnja 2004. godine.

Ovim se Zakonom potvrđuje Okvirna konvencija, kako bi njezine odredbe u smislu članka 140. Ustava Republike Hrvatske ("Narodne novine" br. 41/01-pročišćeni tekst i 55/01-ispravak) postale dio unutarnjeg pravnog poretka Republike Hrvatske.

Vodeći računa o činjenici da Republika Hrvatska godišnje izdvaja značajna sredstva za osiguranje zdravstvene zaštite osoba oboljelih od posljedica pušenja, dugoročno će provođenje predloženoga zakona imati pozitivne učinke za hrvatsko gospodarstvo.

Okvirna konvencija predviđa, između ostalog, da svaka stranka uspostavlja ili jača i financira nacionalni koordinacijski mehanizam ili koordinateure za nadzor nad duhanom. Takva obveza prema Okvirnoj konvenciji treba biti u skladu s mogućnostima svake države stranke.

Prema Okvirnoj konvenciji mjere određivanja cijena i oporezivanja s ciljem smanjenja potražnje za duhanom (članak 6.), trebaju se poduzeti neovisno o suverenom pravu stranaka na samostalno određivanje i uspostavljanje svojih politika oporezivanja.

Okvirna konvencija sadrži odredbe vezano uz pružanje financijske podrške pomoću bilateralnih i multilateralnih mehanizama financiranja strankama državama u razvoju i strankama s gospodarstvima u tranziciji kako bi ih podržale u izvršavanju obveza iz Okvirne konvencije. Okvirna konvencija također predviđa (članak 17.) pružanje podrške pri uvođenju gospodarskih održivih zamjenskih aktivnosti. Vezano uz pakiranje i označavanje duhanskih proizvoda (članak 11.) primjena bi trebala započeti 3 godine nakon stupanja Okvirne konvencije na snagu, a za sveobuhvatnu zabranu reklamiranja i sponzoriranja (članak 13.) koja treba biti u skladu sa ustavom ili ustavnim načelima države stranke predviđeno je da stranke poduzimaju odgovarajuće mjere u roku od pet godina od stupanja na snagu konvencije.

Za svaku državu koja ratificira Okvirnu konvenciju ista stupa na snagu devedesetog dana od dana polaganja njezine isprave o ratifikaciji.

Potvrđivanjem Okvirne konvencije Republika Hrvatska pridružit će se državama članicama Europske unije, koje su do sada ratificirale Okvirnu konvenciju te će time potvrditi dosljednost svoje aktivne politike na području zaštite zdravlja, odnosno politike prevencije i suzbijanja uporabe duhana i duhanskih proizvoda.

III. OCJENA POTREBNIH SREDSTAVA ZA PROVEDBU OVOGA ZAKONA

Za provedbu Zakona o potvrđivanju Okvirne konvencije biti će potrebno na godišnjoj razini osigurati 200.000 kuna u Državnom proračunu Republike Hrvatske.

IV. PRIJEDLOG ZA DONOŠENJE ZAKONA PO HITNOM POSTUPKU

Temelj za donošenje ovog Zakona po hitnom postupku nalazi se u članku 159. Poslovnika Hrvatskog sabora i to u drugim osobito opravdanim državnim razlozima, a to je interes da se što skorije okončaju potrebni unutarnji pravni postupci kako bi i Republika Hrvatska postala strankom Okvirne konvencije.

S obzirom na prirodu postupka potvrđivanja međunarodnih ugovora, kojim država i formalno izražava spremnost da bude obvezana već potpisanim međunarodnim ugovorom, kao i na činjenicu da se u ovoj fazi postupka ne mogu vršiti izmjene ili dopune teksta međunarodnog ugovora, predlaže se ovaj prijedlog Zakona raspraviti i prihvatiti po hitnom postupku, objedinjavajući prvo i drugo čitanje.

V. TEKST KONAČNOG PRIJEDLOGA ZAKONA O POTVRĐIVANJU OKVIRNE KONVENCIJE SVJETSKE ZDRAVSTVENE ORGANIZACIJE O NADZORU NAD DUHANOM

Na temelju članka 16. Zakona o sklapanju i izvršavanju međunarodnih ugovora ("Narodne novine" br. 28/96), a polazeći od članka 139. Ustava Republike Hrvatske, predlaže se pokretanje postupka za donošenje Zakona o potvrđivanju Okvirne konvencije, po hitnom postupku.

Konačni prijedlog zakona o potvrđivanju Okvirne konvencije glasi:

**KONAČNI PRIJEDLOG ZAKONA O POTVRĐIVANJU
OKVIRNE KONVENCIJE SVJETSKE ZDRAVSTVENE ORGANIZACIJE
O NADZORU NAD DUHANOM**

Članak 1.

Potvrđuje se Okvirna konvencija Svjetske zdravstvene organizacije o nadzoru nad duhanom, sastavljena u Ženevi, 21. svibnja 2003. godine, u izvorniku na arapskom, kineskom, engleskom, francuskom, ruskom i španjolskom jeziku, a koju je Republika Hrvatska potpisala 2. lipnja 2004. godine.

Članak 2.

Tekst Okvirne konvencije iz članka 1. ovoga Zakona, u izvorniku na engleskom jeziku i prijevodu na hrvatski jezik glasi:

OKVIRNA KONVENCIJA SVJETSKJE ZDRAVSTVENE ORGANIZACIJE O NADZORU NAD DUHANOM

Preambula

Stranke ove Konvencije,

Ustrajne u nastojanju davanja prioriteta pravu na zaštitu javnoga zdravlja,

Uzimajući u obzir da je širenje duhanske epidemije globalni problem s ozbiljnim posljedicama po javno zdravlje što poziva na što je moguću širu međunarodnu suradnju i sudjelovanje svih zemalja u davanju učinkovitog, odgovarajućeg i cjelovitog međunarodnog odgovora,

Odražavajući zabrinutost međunarodne zajednice zbog izrazito štetnog utjecaja uporabe duhana i izlaganja duhanskom dimu na zdravlje ljudi u svijetu, kao i na socijalne, gospodarske i ekološke posljedice,

Ozbiljno zabrinute svjetskim porastom uporabe i proizvodnje cigareta i ostalih duhanskih proizvoda, posebice u zemljama u razvoju, kao i za teret koji isti predstavljaju obiteljima, siromašnima i nacionalnim zdravstvenim sustavima;

Imajući na umu nedvojbenost znanstvenih dokaza kojima je utvrđeno kako uporaba duhana i izlaganje duhanskom dimu uzrokuju smrt, bolest i invaliditet i kako postoji vremenski razmak između izlaganja duhanskom dimu i ostaloj uporabi duhanskih proizvoda i nastanku bolesti vezanih uz uporabu duhana,

Uzimajući u obzir da su cigarete i drugi proizvodi koji sadrže duhan napravljeni tako da stvaraju, i održavaju, ovisnost te kako su mnogi njihovi sastojci i dim koji proizvode farmakološki aktivni, toksični, karcinogeni i uzrokuju mutacije na genima i da je ovisnost o duhanu svrstana u posebnu kategoriju kao poremećaj, prema glavnoj međunarodnoj klasifikaciji bolesti,

Prihvaćajući da postoje jasni znanstveni dokazi kako perinatalno izlaganje duhanskom dimu šteti zdravstvenim i razvojnim stanjima djece,

Duboko zabrinuti zbog povećanja pušenja i ostalih oblika uporabe duhana kod djece i adolescenata u svijetu, posebice povećanja pušenja u ranim godinama,

Uznemireni zbog porasta pušenja i ostalih oblika uporabe duhana kod žena i mladih djevojaka diljem svijeta, a imajući u vidu potrebu za cjelovitim sudjelovanjem žena na svim razinama donošenja odluka i provedbe, kao i potrebu za posebnim spolno orijentiranim strategijama nadzora nad duhanom,

Duboko zabrinuti zbog visoke stope pušenja i ostalih oblika uporabe duhana od strane stanovništva,

Ozbiljno zabrinuti zbog učinaka svih vrsta oglašavanja, promidžbe i sponzoriranja kojima je cilj poticanje uporabe duhanskih proizvoda,

Uzimajući u obzir potrebu zajedničkog djelovanja kako bi se uklonili svi oblici nedozvoljene trgovine cigaretama i ostalim duhanskim proizvodima, uključujući krijumčarenje, nedozvoljene proizvodnje i krivotvorenja,

Potvrđujući kako nadzor nad duhanom na svim razinama, a osobito u zemljama u razvoju i zemljama s gospodarstvima u tranziciji, zahtijeva znatna financijska i tehnička sredstva, koja su primjerena trenutnim i pretpostavljenim potrebama za aktivnostima vezanim uz nadzor nad duhanom,

Imajući na umu potrebu za razvijanjem odgovarajućih mehanizama koji bi se odnosili na dugoročne društvene i gospodarske implikacije uspješnih strategija smanjenja potražnje za duhanom,

Uzimajući u obzir socijalne i gospodarske poteškoće koje mogu ugroziti programe za nadzor nad duhanom na srednjoročnom i dugoročnom planu u nekim zemljama u razvoju, kao i u zemljama s gospodarstvima u tranziciji, i priznavajući njihovu potrebu za tehničkom i financijskom podrškom, u kontekstu nacionalnih strategija razvijenih u svrhu stvaranja samoodrživog razvoja,

Svjesni vrijednosti djelovanja mnogih država na polju nadzora nad duhanom i odajući priznanje vodstvu Svjetske zdravstvene organizacije kao i nastojanjima ostalih organizacija i tijela iz sustava Ujedinjenih naroda te ostalih međunarodnih i regionalnih međuvladinih organizacija u razvijanju mjera za nadzor nad duhanom,

Ističući poseban doprinos nevladinih organizacija i ostalih članova civilnog društva koji nisu povezani s duhanskom industrijom, uključujući stručna zdravstvena tijela, udruge žena, mladih, udruge za ekologiju i udruge potrošača te akademske i zdravstvene ustanove u nastojanjima sprečavanja i suzbijanja uporabe duhana i duhanskih proizvoda na nacionalnoj i međunarodnoj razini i veliku važnosti njihovog sudjelovanja u nacionalnim i međunarodnim nastojanjima nadzora nad duhanom,

Imajući na umu potrebu za pripravnosću u svezi pokušaja duhanske industrije da umanje ili onemoguće nadzor nad duhanom, potrebu za obaviještenosti o aktivnostima duhanske industrije koje negativno utječu na mjere poduzete radi nadzora nad duhanom,

Pozivajući se na članak 12. Međunarodnog pakta o gospodarskim, socijalnim i kulturnim pravima kojega je usvojila Opća skupština Ujedinjenih naroda 16. prosinca 1966. godine, a kojim se utvrđuje pravo svakog čovjeka na uživanje najvećeg mogućeg standarda fizičkog i mentalnog zdravlja,

Pozivajući se također na preambulu Ustava Svjetske zdravstvene organizacije, kojom se utvrđuje kako je uživanje najvećeg mogućeg zdravstvenog standarda jedno od temeljnih prava svakog ljudskog bića bez obzira na rasu, vjeroispovijest, političko opredjeljenje, gospodarske ili socijalne prilike,

Odlučni promicati mjere nadzora nad duhanom koje se temelje na postojećim i relevantnim znanstvenim, tehničkim i gospodarskim spoznajama,

Pozivajući se na Konvenciju o ukidanju svih oblika diskriminacije žena, koju je usvojila Opća skupština Ujedinjenih naroda 18. prosinca 1979. godine, kojom države potpisnice Konvencije poduzimaju potrebne mjere kako bi ukinule diskriminaciju žena u području zdravstvene zaštite,

Pozivajući se, nadalje, na Konvenciju o pravima djeteta, koju je usvojila Opća skupština Ujedinjenih naroda 20. studenog 1989. godine, kojom države stranke Konvencije priznaju pravo svakog djeteta na uživanje najvećeg mogućeg standarda zdravlja,

sporazumjele su se kako slijedi:

I. DIO: UVOD

Članak 1.

Korištenje izraza

Za potrebe ove Konvencije:

- a) “nedozvoljena trgovina“ jest bilo koje postupanje ili ponašanje zabranjeno zakonom, a koje se odnosi na proizvodnju, slanje, primanje, posjedovanje, distribuciju, prodaju ili kupnju uključujući i postupanje ili ponašanja s namjerom omogućavanja takvih aktivnosti;
- b) “organizacija regionalne ekonomske integracije“ jest bilo koja organizacija sastavljena od nekoliko suverenih država kojoj su njezine države članice prenijele određene ovlasti, uključujući ovlasti za donošenje odluka koje obvezuju države članice u tome pogledu;¹
- c) “oglašavanje i promidžba duhanskih proizvoda i duhana“ jest bilo koji oblik komercijalne objave, preporuke ili djelovanja s ciljem, učinkom ili mogućim učinkom izravnog ili neizravnog promicanja uporabe duhanskog proizvoda ili duhana;
- d) “nadzor nad duhanom“ jest niz strategija smanjivanja ponude, potražnje i štetnih učinaka duhana, kojima je cilj poboljšanje zdravlja stanovnika

¹ Gdje je potrebno, izraz nacionalni također se odnosi na organizacije regionalne ekonomske integracije.

suzbijanjem ili smanjivanjem uporabe duhanskih proizvoda i izlaganja duhanskom dimu;

e) “duhanska industrija“ su proizvođači duhana, distributeri duhana na veliko i uvoznici duhanskih proizvoda;

f) “duhanski proizvodi“ su proizvodi koji su u potpunosti ili djelomično izrađeni od listova duhana, kao sirovina, proizvedeni za uporabu pušenjem, sisanjem, žvakanjem ili šmrkanjem;

g) “sponzoriranje promoviranjem duhanskih proizvoda i duhana“ jest bilo koji oblik doprinosa bilo kojem događaju, aktivnosti ili pojedinačno s ciljem, učinkom ili mogućim učinkom izravnog ili neizravnog promicanja duhanskog proizvoda ili uporabe duhana;

Članak 2.

Odnos između ove Konvencije i ostalih ugovora i pravnih instrumenata

1. S ciljem što bolje zaštite zdravlja ljudi, stranke se potiču na provedbu svih ostalih mjera koje nisu uključene u ovu Konvenciju i njene protokole te ništa navedeno u ovim instrumentima ne sprječava stranke pri uvođenju strožih zahtjeva koji su u skladu s njihovim odredbama i međunarodnim pravom.

2. Odredbe Konvencije i njenih protokola ne utječu na pravo stranaka da sklope dvostrane ili mnogostrane međunarodne ugovore, uključujući regionalne ili subregionalne ugovore o pitanjima koja se odnose na Konvenciju i njezine protokole, ili dodatnim pitanjima, ako su takvi ugovori u skladu s obvezama iz Konvencije i njezinih protokola. Odnosne stranke o takvim ugovorima izvješćuju Konferenciju stranaka putem Tajništva.

II. DIO: SVRHA, SMJERNICE I OPĆE OBVEZE

Članak 3.

Svrha

Svrha ove Konvencije i njenih protokola jest zaštita sadašnjih i budućih naraštaja od štetnih zdravstvenih, socijalnih, ekoloških i gospodarskih posljedica uporabe duhana i izlaganja duhanskom dimu kroz pripremu okvira za mjere o nadzoru nad duhanom koje će provoditi stranke na nacionalnim, regionalnim i međunarodnim razinama kako bi sustavno i znatno smanjile uporabu duhana i izlaganje duhanskom dimu.

Članak 4. **Smjernice**

U ostvarenju svrhe ove Konvencije i njezinih protokola i provođenja njezinih odredaba, stranke se ravnaju prema, između ostalog, i dolje navedenim smjernicama:

1. Svaka osoba treba biti obaviještena o zdravstvenim posljedicama, izazivanju ovisnosti i opasnostima po život koju podrazumijeva uporaba duhana i izlaganje duhanskom dimu te se na odgovarajućim razinama vlade trebaju razmotriti učinkovite zakonodavne, izvršne, upravne ili druge mjere kojima bi se sve osobe zaštitile od izlaganja duhanskom dimu.

2. Potrebna je snažna politička predanost koja bi razvila i podržala sveobuhvatne multisektorske mjere i usklađeno djelovanje na nacionalnim, regionalnim i međunarodnim razinama, uzimajući u obzir:

(a) potrebu za poduzimanjem mjera kojima bi se sve osobe zaštitile od štetne izloženosti duhanskome dimu;

(b) potrebu za poduzimanjem mjera koje bi spriječile započinjanje te promicale i poticale prestanak, kao i smanjivanje uporabe duhanskih proizvoda u bilo kojem obliku;

(c) potrebu za poduzimanjem mjera za promicanje sudjelovanja pojedinaca i zajednice u razvoju, provedbi i procjeni programa za nadzor nad duhanom, a koji su društveno i kulturološki u skladu s njihovim potrebama i nazorima; i

(d) potrebu za poduzimanjem mjera koje bi se odnosile na posebnosti rizika kod spolova pri stvaranju strategija nadzora nad duhanom.

3. Međunarodna suradnja jest važan dio Konvencije, osobito prijenos tehnologije, znanja te financijska podrška, kao i osiguravanje odnosnih stručnih znanja, kako bi se uspostavili i provodili učinkoviti programi nadzora nad duhanom, uzimajući u obzir mjesnu kulturu, kao i društvene, gospodarske, političke i pravne čimbenike.

4. Sveobuhvatne multisektorske mjere i odgovori, kako bi se smanjila uporaba svih duhanskih proizvoda na nacionalnim, regionalnim i međunarodnim razinama, od presudne su važnosti, kao i sprječavanje, sukladno načelima javnoga zdravstva, učestalosti bolesti, preuranjene invalidnosti i smrtnosti uzrokovane uporabom duhanskih proizvoda te izlaganja duhanskom dimu.

5. Pitanja koja se odnose na odgovornost, koju svaka stranka uređuje unutar svoje nadležnosti, važan su dio sveobuhvatnog nadzora nad duhanom.

6. Važnost tehničke i financijske podrške za pomoć pri gospodarskom prijelazu uzgajivača duhana, i radnika na čiji život programi nadzora nad duhanom, kod stranaka zemalja u razvoju, kao i kod stranaka s gospodarstvima u tranziciji mora se prepoznati u kontekstu nacionalnih razvojnih strategija za samoodrživ razvoj.

7. Sudjelovanje civilnog društva jest od nužne važnosti za postizanje svrhe ove Konvencije i njezinih protokola.

Članak 5. *Opće obveze*

1. Svaka stranka razvija, provodi, periodički obnavlja i izvješćuje o sveobuhvatnim multisektorskim nacionalnim strategijama za nadzor nad duhanom, planovima i programima u skladu s ovom Konvencijom i njezinim protokolima kojih je stranka.

2. U ostvarenju tog cilja, svaka stranka u skladu sa svojim mogućnostima:

(a) uspostavlja ili jača i financira nacionalni koordinacijski mehanizam ili koordinateure za nadzor nad duhanom; i

(b) prihvaća i provodi učinkovite zakonske, izvršne, upravne i/ili druge mjere i surađuje, po potrebi, s drugim strankama na razvijanju odgovarajućih politika za sprječavanje i smanjivanje uporabe duhana, ovisnosti o nikotinu i izlaganja duhanskom dimu.

3. Pri uspostavi i provedbi svojih zdravstvenih politika, koje se odnose na nadzor nad duhanom, stranke djeluju kako bi ih zaštitile od trgovinskih i ostalih postojećih interesa duhanske industrije, u skladu s nacionalnim pravom.

4. Stranke surađuju u stvaranju predloženih mjera, postupaka i smjernica za provedbu Konvencije i njezinih protokola kojih su stranke.

5. Stranke surađuju, po potrebi, sa stručnim međunarodnim i regionalnim međuvladinim organizacijama i ostalim tijelima kako bi se postigla svrha Konvencije i njezinih protokola kojih su stranke.

6. Stranke surađuju, u okviru sredstava koja su im dostupna, kako bi skupile financijska sredstva za učinkovitu provedbu Konvencije pomoću bilateralnih i multilateralnih mehanizama financiranja.

III. DIO: MJERE KOJE SE ODNOSI NA SMANJIVANJE POTRAŽNJE DUHANA

Članak 6.

Mjere određivanja cijena i oporezivanja za smanjenje potražnje za duhanom

1. Stranke prepoznaju mjere određivanja cijena i oporezivanja kao učinkovito i važno sredstvo za smanjenje uporabe duhana od strane različitih skupina stanovništva, posebice mladeži.
2. Svaka će stranka, ne dovodeći u pitanje suvereno pravo stranaka na određivanje i uspostavljanje njezinih politika oporezivanja, uzeti u obzir svoje nacionalne zdravstvene ciljeve koji se odnose na nadzor nad duhanom i usvojiti ili nastaviti s provedbom, po potrebi, mjera koje mogu uključivati:
 - (a) provedbu politike oporezivanja i, prema potrebi, politike određivanja cijena za duhanske proizvode kako bi se pridonijelo zdravstvenim ciljevima koji su usmjereni na smanjenje uporabe duhana; i
 - (b) zabranjivanje ili ograničenja, prema potrebi, prodaje i/ili uvoza duhanskih proizvoda od strane osoba koje prelaze međunarodne granice koji su oslobođeni poreza i carine.
3. Stranke će odrediti poreznu stopu za duhanske proizvode i smjer kretanja u uporabi duhana u svojim periodičnim izvješćima Konferenciji stranaka, sukladno članku 21.

Članak 7.

Mjere smanjenja potražnje za duhanom, koje se ne odnose na određivanje cijena

Stranke prihvaćaju da opsežne mjere, koje se ne odnose na određivanje cijena, predstavljaju učinkovite i važne načine smanjenja uporabe duhana. Svaka stranka usvaja i provodi učinkovite zakonodavne, izvršne, upravne ili druge mjere potrebne za provedbu svojih obveza sukladno člancima 8. i 13, i surađuje, prema potrebi, međusobno, izravno ili putem nadležnih međunarodnih tijela u pogledu njihove provedbe. Konferencija stranaka predlaže odgovarajuće smjernice za provedbu odredaba ovih članaka.

Članak 8.

Zaštita od izlaganja duhanskom dimu

1. Stranke prihvaćaju znanstvene dokaze koji su nedvojbeno utvrdili da izlaganje duhanskom dimu uzrokuje smrt, bolest i invaliditet.
2. Svaka stranka, u područjima postojeće nacionalne nadležnosti, kako su utvrđena nacionalnim pravom, usvaja i provodi, te aktivno promiče i na drugim razinama

nadležnosti, usvajanje i provedbu učinkovitih zakonodavnih, izvršnih, upravnih i/ili drugih mjera zaštite od izlaganja duhanskom dimu u zatvorenim radnim prostorima, javnom prijevozu, i prema potrebi, drugim javnim mjestima.

Članak 9.

Reguliranje sastojaka duhanskih proizvoda

Konferencija stranaka, u dogovoru s nadležnim međunarodnim tijelima, predlaže smjernice za ispitivanja i mjerenja sastojaka i emisije dima duhanskih proizvoda kao i za uređivanje njihovog sadržaja i emisija. Svaka stranka, uz odobrenje nadležnih nacionalnih tijela, prihvaća i provodi učinkovite zakonodavne, izvršne, upravne ili druge mjere za takva ispitivanja i mjerenja te za takvu vrstu reguliranja.

Članak 10.

Uređivanje otkrivanja podataka o duhanskim proizvodima

Svaka stranka, sukladno svom nacionalnim pravom, usvaja i provodi učinkovite zakonodavne, izvršne, upravne ili druge mjere koje zahtijevaju od proizvođača i uvoznika duhanskih proizvoda otkrivanje podataka vladinim tijelima o sastojcima i emisiji dima duhanskih proizvoda. Svaka stranka dodatno usvaja i provodi učinkovite mjere za javno otkrivanje podataka o otrovnim sastojcima u duhanskim proizvodima i emisiji koju mogu stvoriti.

Članak 11.

Pakiranje i označavanje duhanskih proizvoda

1. Svaka stranka, u razdoblju od tri godine nakon stupanja na snagu ove Konvencije, prihvaća i provodi, u skladu sa svojim nacionalnim pravom, učinkovite mjere kojima se osigurava:

(a) da se pakiranjem i označavanjem duhanskih proizvoda ne vrši promidžba načinima koji su neistiniti, koji krivo navode ili mogu stvoriti krivu predodžbu o karakteristikama, zdravstvenim učincima, opasnostima ili emisijama, uključujući bilo koji izraz, opisnu oznaku, zaštitni znak, figurativni ili bilo koji drugi znak koji izravno ili neizravno stvara krivu predodžbu o određenom duhanskom proizvodu kao manje štetnom od ostalih duhanskih proizvoda. To uključuje izraze poput "niska razina katrana", "light", "ultra-light" ili "mild"; i

(b) da svaka pojedinačna kutija ili pakiranje duhanskih proizvoda i bilo koje vanjsko pakiranje i označavanje na takvim proizvodima, također, sadrži zdravstvena upozorenja koja opisuju štetne utjecaje uporabe duhana te mogu sadržavati i druge odgovarajuće poruke. Navedena upozorenja i poruke:

(i) trebaju biti odobrena od strane nadležnog nacionalnog tijela,

- (ii) trebaju se izmjenjivati,
- (iii) trebaju biti velika, jasna, vidljiva i čitka,
- (iv) po mogućnosti zauzimaju 50% ili više glavne površine pakiranja, ali ne manje od 30% glavne površine pakiranja,
- (v) mogu biti u obliku, ili uključivati, sliku ili piktogram.

2. Svaka pojedinačna kutija ili pakiranje duhanskih proizvoda i vanjsko pakiranje te označavanje takvih proizvoda sadrži, uz dodatna upozorenja navedena u stavku 1. (b) ovoga članka, podatke o važnim sastojcima i emisijama dima duhanskih proizvoda koje su odredila nacionalna tijela.

3. Svaka stranka zahtijeva stavljanje upozorenja i ostalih tekstualnih podataka, navedenih u stavcima 1.(b) i 2. ovog članka na svaku pojedinačnu kutiju i pakiranje duhanskih proizvoda i svako vanjsko pakiranje i označavanje ovih proizvoda na svojem službenom jeziku ili jezicima.

4. Za potrebe ovog članka, izraz "vanjsko pakiranje i označavanje" u smislu duhanskih proizvoda odnosi se na bilo koje pakiranje i označavanje kod prodaje proizvoda na malo.

Članak 12.

Edukacija, davanje podataka, obuka i osvješćivanje javnosti

Svaka stranka obavlja promidžbu i podiže razinu osviještenosti javnosti o pitanjima vezanim uz nadzor nad duhanom, koristeći, prema potrebi, sva dostupna komunikacijska sredstva. U tu svrhu, svaka stranka usvaja i provodi učinkovite zakonodavne, izvršne, upravne ili druge mjere za promicanje:

- (a) širokog pristupa učinkovitim i sveobuhvatnim programima edukacije i podizanja razine osviještenosti javnosti o zdravstvenim rizicima uključujući karakteristike ovisnosti koju stvara uporaba duhana i izlaganje duhanskom dimu;
- (b) osviještenosti javnosti o zdravstvenim rizicima uporabe duhana i izlaganja duhanskom dimu te o prednostima prestanka uporabe duhana i životnog stila bez duhana, kako je navedeno u članku 14.2;
- (c) pristupa javnosti, sukladno nacionalnom pravu, širokom rasponu podataka o duhanskoj industriji koji su relevantni za postizanje svrhe ove Konvencije;
- (d) učinkovitih i odgovarajućih programa obuke ili programima senzibilizacije i osvješćivanja o nadzoru nad duhanom namijenjenim osobama kao što su zdravstveni radnici, radnici u zajednici, socijalni radnici, zaposleni u

medijima, radnici u obrazovanju, nositelji političkih odluka, službenici i ostale osobe na koje se ovo odnosi;

(e) osvještavanja i uključivanja javnih i privatnih agencija i nevladinih udruga, koje nisu povezane s duhanskom industrijom, u razvijanju i provođenju međusektorskih programa i strategija za nadzor nad duhanom; i

(f) osvještavanja javnosti i pristupa podacima o štetnim zdravstvenim, gospodarskim i ekološkim posljedicama proizvodnje i uporabe duhana.

Članak 13.

Oglašavanje, promidžba i sponzoriranje promoviranjem duhanskih proizvoda i duhana

1. Stranke prepoznaju da će sveobuhvatna zabrana oglašavanja, promidžbe i sponzoriranja smanjiti uporabu duhanskih proizvoda.

2. Svaka stranka, u skladu sa svojim ustavom ili ustavnim načelima, uvodi zabranu svakog oglašavanja, promidžbe ili sponzoriranje promoviranjem duhanskih proizvoda i duhana. To uključuje sveobuhvatnu zabranu prekograničnog oglašavanja, promidžbe i sponzoriranja na svom državnom području, ovisno o uvjetima pravnog okruženja i tehničkim sredstvima dostupnima stranci. S tim u vezi, u roku od pet godina nakon stupanja na snagu ove Konvencije, svaka stranka poduzima odgovarajuće zakonodavne, izvršne, upravne i/ili druge mjere o čemu podnosi izvješće sukladno članku 21.

3. Stranka koja ne može staviti sveobuhvatnu zabranu, zbog svog ustava ili ustavnih načela, ograničit će sva oglašavanja, promidžbe i sponzoriranja promoviranjem duhanskih proizvoda i duhana. To uključuje ograničenja ili sveobuhvatnu zabranu oglašavanja, promidžbe i sponzoriranja promoviranjem duhanskih proizvoda i duhana na svojem državnom području s prekograničnim učinkom, ovisno o pravnom okruženju i tehničkim mogućnostima koje su stranci dostupne. S tim u vezi, svaka stranka poduzima odgovarajuće zakonodavne, izvršne, upravne i/ili druge mjere te podnosi izvješće sukladno članku 21.

4. Kao minimum, a sukladno ustavu ili ustavnim načelima, svaka stranka treba:

(a) zabraniti sve oblike oglašavanja, promidžbe i sponzoriranja promoviranjem duhanskih proizvoda i duhana koji promiču duhanske proizvode načinima koji su neistiniti, koji krivo navode ili mogu stvoriti krivu predodžbu o njegovim svojstvima, učincima na ljudsko zdravlje, opasnostima ili emisijama;

(b) zahtijevati da upozorenja o štetnosti po zdravlje kao i ostala odgovarajuća upozorenja i poruke prate oglašavanje, promidžbu i sponzoriranje;

(c) ograničavati uporabu izravnog ili neizravnog poticanja javnosti na kupnju duhanskih proizvoda;

(d) zahtijevati, ako nema uvedenu sveobuhvatnu zabranu, davanje podataka nadležnim vladinim tijelima o izdacima duhanske industrije za oglašavanje, promidžbu i sponzoriranje koje još nije zabranjeno. Ta tijela odlučuju hoće li te brojke učiniti dostupnima, što podliježe nacionalnom pravu, javnosti i Konferenciji stranaka, sukladno članku 21.;

(e) staviti sveobuhvatnu zabranu ili, u slučaju stranke koja nije u mogućnosti staviti zabranu zbog svojeg ustava ili ustavnih načela, ograničenje na oglašavanje, promidžbu i sponzoriranje promoviranjem duhanskih proizvoda i duhana na radiju, televiziji, u tisku i, prema potrebi, u ostalim medijima poput Interneta, u vremenskom razdoblju od pet godina; i

(f) zabraniti ili, u slučaju da stranka nije u mogućnosti zabraniti, zbog svojeg ustava ili ustavnih načela, ograničiti sponzoriranje promoviranjem duhanskih proizvoda ili duhana međunarodnih događaja, aktivnosti i/ili sudionika takvih aktivnosti i događaja.

5. Potiču se stranke na provođenje mjera i koje prelaze obveze navedene u stavku 4.

6. Stranke surađuju pri razvijanju tehnologija i ostalih načina potrebnih kako bi se omogućilo suzbijanje prekograničnog oglašavanja.

7. Stranke koje su uvele zabranu za određene oblike oglašavanja, promidžbe i sponzoriranja promoviranjem duhanskih proizvoda i duhana imaju suvereno pravo zabraniti takve vrste prekograničnog oglašavanja, promidžbe i sponzoriranja promoviranjem duhanskih proizvoda i duhana pri ulazu na njihovo državno područje i uvesti jednake sankcije poput onih koje primjenjuju za domaća oglašavanja, promidžbe i sponzoriranja koja nastaju na njihovom državnom području sukladno njihovom nacionalnom pravu. Ovaj stavak ne prihvaća niti odobrava bilo koju vrstu sankcije.

8. Stranke razmatraju izradu protokola za donošenje odgovarajućih mjera koje zahtijevaju međunarodnu suradnju u sveobuhvatnoj zabrani prekograničnog oglašavanja, promidžbe i sponzoriranja.

Članak 14.

Mjere smanjenja potražnje koje se odnose na suzbijanje ovisnosti o duhanu

1. Svaka stranka razvija i daje odgovarajuće, sveobuhvatne i cjelovite smjernice utemeljene na znanstvenim dokazima i najboljim primjerima, uzimajući u obzir

nacionalne prilike i prioritete te poduzima učinkovite mjere kako bi promovirao prestanak uporabe duhana i odgovarajući tretman za odvikavanje od ovisnosti o duhanu.

2. U ostvarenju tog cilja, svaka stranka nastoji:

(a) izraditi i provoditi učinkovite programe za promicanje prestanka uporabe duhana na mjestima poput obrazovnih ustanova, zdravstvenih ustanova, radnih mjesta i sportskih okruženja;

(b) uključiti dijagnozu i liječenje ovisnosti o duhanu i savjetovanje za prestanak uporabe duhana u nacionalne zdravstvene i obrazovne programe, planove i strategije, uz sudjelovanje zdravstvenih radnika, radnika u zajednici i socijalnih radnika, prema potrebi;

(c) uspostaviti programe za dijagnosticiranje, savjetovanje, sprječavanje i liječenje ovisnosti o duhanu u zdravstvenim ustanovama i rehabilitacijskim centrima; i

(d) surađivati s ostalim strankama kako bi se olakšao pristup i dostupnost liječenja ovisnosti o duhanu, uključujući farmaceutske proizvode sukladno članku 22. Takvi proizvodi i njihovi sastojci mogu uključivati lijekove, proizvode za davanje lijekova i dijagnostiku, prema potrebi.

IV. DIO: MJERE ZA SMANJENJE DUHANSKE PONUDE

Članak 15.

Nedozvoljena trgovina duhanskim proizvodima

1. Stranke priznaju da suzbijanje svih oblika nedozvoljene trgovine duhanskim proizvodima, uključujući krijumčarenje, nedozvoljenu proizvodnju i krivotvorenje te izrada i provedba odgovarajućih nacionalnih zakona uz već postojeće subregionalne, regionalne i globalne ugovore, čini važan sastavni dio nadzora nad duhanom.

2. Svaka stranka usvaja i provodi učinkovite zakonodavne, izvršne, upravne ili ostale mjere kako bi osigurala označavanje svih pojedinačnih kutija i pakiranja duhanskih proizvoda i bilo kojeg vanjskog pakiranja takvih proizvoda na način da olakšaju strankama određivanje podrijetla duhanskih proizvoda i da, sukladno nacionalnom pravu i odgovarajućim dvostranim ili mnogostranim međunarodnim ugovorima, olakšaju strankama određivanje razlikovnih točaka i nadzor, dokumentiranje i kontrolu kretanja duhanskih proizvoda i njihov pravni status. Svaka stranka dodatno:

(a) zahtijeva stavljanje otisnute izjave: "Samo za prodaju u (unesite ime države, subnacionalne, regionalne ili federalne jedinice)" na svaku pojedinačnu kutiju i pakiranja duhanskih proizvoda za maloprodaju i veleprodaju na

domaćem tržištu ili bilo koju drugu vidljivu oznaku koja ukazuje na konačno odredište ili koja će pomoći tijelima pri utvrđivanju je li proizvod zakonito u prodaji na domaćem tržištu; i

(b) razmotri, po potrebi, razvijanje primjenjivog praćenja i režima za pronalaženje koji će nadalje osiguravati distribucijski sustav i olakšati kontrolu nedozvoljene trgovine.

3. Svaka stranka zahtijeva da su podaci na pakovanju ili oznake navedene u stavku 2. ovog članka čitki i /ili napisani na službenom jeziku ili jezicima.

4. U svrhu suzbijanja nedozvoljene trgovine duhanskim proizvodima, svaka stranka:

(a) prati i prikuplja podatke o prekograničnoj trgovini duhanskim proizvodima, uključujući nedozvoljenu trgovinu, i razmjenjuje podatke između carinarnica, poreznih i ostalih tijela, po potrebi, i sukladno s nacionalnim pravom i odgovarajućim dvostranim i mnogostranim međunarodnim ugovorima koje može primijeniti;

(b) donosi, odnosno primjenjuje zakone, s odgovarajućim sankcijama i pravnim lijekovima, za nedozvoljenu trgovinu duhanskim proizvodima, uključujući krivotvorene i krijumčarene cigarete;

(c) poduzima potrebne korake kako bi osigurala da se sva zaplijenjena oprema za proizvodnju, krivotvorenje i krijumčarenje cigareta i ostalih duhanskih proizvoda uništi, koristeći metode koje nisu štetne za okoliš gdje je to moguće, ili pohranjuje u skladu s nacionalnim pravom;

(d) usvaja i provodi mjere za nadzor, dokumentiranje, kontrolu skladištenja i distribucije duhanskih proizvoda, za koje drži ili koje su pod suspenzijom poreza ili carinskih pristojbi unutar njezine nadležnosti; i

(e) usvaja mjere, po potrebi, koje omogućuju zapljenu dobitka koji je stečen nedozvoljenom trgovinom duhanskim proizvodima.

5. Sakupljene podatke u skladu s točkama 4.(a) i 4.(d) ovoga članka stranke dostavljaju u cijelosti, po potrebi, u svojim periodičkim izvješćima Konferenciji stranaka, sukladno članku 21.

6. Stranke, po potrebi, i u skladu s nacionalnim pravom, promiču suradnju među nacionalnim agencijama, kao i važnim regionalnim i međunarodnim međuvladinim organizacijama u svrhu provođenja istraga, tužbi i postupaka, s ciljem suzbijanja nedozvoljene trgovine duhanskim proizvodima. Poseban naglasak stavljen je na suradnju na regionalnim i subregionalnim razinama kako bi se spriječila nedozvoljena trgovina duhanskim proizvodima.

7. Svaka stranka nastoji usvojiti i provoditi daljnje mjere uključujući licenciranje gdje je potrebno kako bi kontrolirala ili uređivala proizvodnju i distribuciju duhanskih proizvoda u svrhu zaštite od nedozvoljene trgovine.

Članak 16.

Prodaja maloljetnim osobama i od strane maloljetnih osoba

1. Svaka stranka usvaja i provodi učinkovite zakonodavne, izvršne, upravne ili druge mjere na odgovarajućoj državnoj razini kako bi spriječila prodaju duhanskih proizvoda maloljetnim osobama prema nacionalnom pravu, međunarodnim propisima ili osobama ispod 18 godina starosti. Te mjere mogu uključivati:

(a) zahtjev da svi prodavači duhanskih proizvoda stave jasnu i vidljivu oznaku unutar prodajnog mjesta o zabrani prodaje duhana maloljetnicima te ako je to nejasno, zatraže od svakog kupca duhana pružanje na uvid odgovarajuće isprave o punoljetnosti;

(b) zabranu bilo kojeg načina prodaje duhanskih proizvoda gdje su duhanski proizvodi izravno dostupni, poput polica u dućanu;

(c) zabranu proizvodnje i prodaje slatkiša, grickalica, igračkaka i bilo kojeg drugog predmeta u obliku duhanskog proizvoda koji bi mogao biti dopadljiv maloljetnicima; i

(d) osiguravanje da automatske naprave za prodaju duhana, u okviru svoje nadležnosti, nisu dostupne maloljetnicima i da ne vrše promidžbu prodaje duhanskih proizvoda maloljetnicima.

2. Svaka stranka zabranjuje ili promiče zabranu besplatnog dijeljenja duhanskih proizvoda javnosti, a posebice maloljetnicima.

3. Svaka stranka nastoji zabraniti prodaju cigareta po komadu ili u malim pakiranjima zbog koje su takvi proizvodi novčano dostupni maloljetnicima.

4. Stranke prepoznaju da se mjere za sprječavanje prodaje duhanskih proizvoda maloljetnicima kako bi se povećala njihova učinkovitost trebaju provoditi, po potrebi, zajedno s ostalim odredbama sadržanim u ovoj Konvenciji.

5. Prilikom potpisivanja, ratifikacije, prihvata, odobrenja ili pristupa Konvenciji ili u bilo kojem razdoblju nakon toga, stranka se može, u obliku pisane obvezujuće izjave, izjasniti o stavljanju zabrane na automatske naprave za prodaju duhana u okviru njezine nadležnosti ili, po potrebi, za sveobuhvatnu zabranu automatskih naprava za prodaju duhana. Izjavu sačinjenu sukladno ovom članku depozitar dostavlja svim strankama ove Konvencije .

6. Svaka stranka usvaja i provodi učinkovite zakonodavne, izvršne, upravne ili druge mjere, uključujući sankcije protiv osoba koje prodaju i distribuiraju duhanske proizvode, kako bi se osigurala provedba obveza iz stavaka 1-5. ovoga članka.

7. Svaka stranka usvaja i provodi, po potrebi, učinkovite zakonodavne, izvršne, upravne ili druge mjere kako bi zabranila prodaju duhanskih proizvoda od strane maloljetnih osoba sukladno nacionalnom pravu ili osobama mlađim od 18 godina.

Članak 17.

Pružanje podrške pri uvođenju gospodarski održivih zamjenskih aktivnosti

Stranke promiču, po potrebi, u suradnji s ostalim stručnim međunarodnim i regionalnim međuvladinim organizacijama, gospodarski održiva alternativna rješenja za radnike u duhanskoj industriji, uzgajivače duhana i, ovisno o slučaju, pojedinačne prodavače duhana.

V. DIO: ZAŠTITA OKOLIŠA

Članak 18.

Zaštita okoliša i zdravlja ljudi

U izvršavanju svojih obveza prema ovoj Konvenciji, stranke su suglasne u pogledu stavljanja naglaska na zaštitu okoliša i zdravlja osoba u odnosu na okoliš, a vezano uz uzgoj i proizvodnju duhana unutar svojih državnih područja.

VI. DIO: PITANJA KOJA SE ODOSE NA ODGOVORNOST

Članak 19.

Odgovornost

1. U svrhu nadzora nad duhanom, stranke će razmotriti poduzimanje zakonodavnih mjera ili unapređenje postojećih zakona, po potrebi, pri rješavanju građanske ili kaznene odgovornosti, uključujući naknadu gdje je to potrebno.

2. Stranke međusobno surađuju pri razmjeni podataka putem Konferencije stranaka sukladno članku 21. uključujući:

(a) podatke o zdravstvenim učincima uporabe duhanskih proizvoda i izlaganja duhanskome dimu u skladu s člankom 20.3(a); i

(b) podatke o zakonodavstvu i propisima koji su na snazi, kao i odgovarajuću pravnu praksu.

3. Stranke, po potrebi i međusobnom dogovoru, unutar okvira svojeg nacionalnog zakonodavstva, politike, pravnih praksi i primjenjivih postojećih ugovornih rješenja, pružaju jedna drugoj podršku u provođenju pravnih postupaka koji se odnose na građansku i kaznenu odgovornost sukladno ovoj Konvenciji.

4. Konvencija ni na koji način ne utječe niti ograničava međusobno pravo pristupa sudovima stranaka gdje takva prava postoje.

5. Konferencija stranaka može u ranom razdoblju razmotriti, po mogućnosti, uzevši u obzir aktivnosti relevantnih međunarodnih skupova, pitanja koja se odnose na odgovornost, uključujući odgovarajuće međunarodne pristupe tim pitanjima i odgovarajuće načine za podršku strankama, na njihov zahtjev, u njihovim zakonodavnim i ostalim aktivnostima, sukladno ovom članku.

VII. DIO: ZNANSTVENA I TEHNIČKA SURADNJA I RAZMJENA PODATAKA

Članak 20.

Istraživanje, nadzor i razmjena podataka

1. Stranke nastoje razviti i promicati nacionalna istraživanja te uskladiti istraživačke programe na regionalnim i međunarodnim razinama u području nadzora nad duhanom. U ostvarenju tog cilja, svaka će stranka:

(a) započeti i surađivati u, izravno ili preko stručnih međunarodnih i regionalnih međuvladinih organizacija i drugih tijela, vođenju istraživanja i znanstvenih procjena te tako promicati i poticati istraživanja koja se bave odlučujućim čimbenicima i posljedicama uporabe duhana i izlaganja duhanskom dimu kao i istraživanja u svrhu utvrđivanja zamjenskih poljoprivrednih usjeva; i

(b) promicati i ojačati, uz pomoć stručnih međunarodnih i regionalnih međuvladinih organizacija i ostalih tijela, obuku i podršku za sve koji su uključeni u aktivnosti vezane uz nadzor nad duhanom, uključujući istraživanja, provođenje i procjenu.

2. Stranke izrađuju, po potrebi, programe za nacionalni, regionalni i globalni nadzor opsega, uzoraka, odlučujućih čimbenika i posljedica uporabe duhana i izlaganja duhanskom dimu. U ostvarenju tog cilja, stranke uvrštavaju programe nadzora nad duhanom u nacionalne, regionalne i globalne programe za nadzor zdravlja tako da se njihovi podaci mogu, po potrebi, usporediti i analizirati na regionalnim i međunarodnim razinama.

3. Stranke prepoznaju važnost financijske i tehničke podrške od strane međunarodnih i regionalnih međuvladinih organizacija i ostalih tijela. Svaka stranka nastoji:

(a) pokrenuti nacionalni sustav za epidemiološki nadzor uporabe duhana kao i ostalih sličnih društvenih, gospodarskih i zdravstvenih pokazatelja;

(b) surađivati sa stručnim međunarodnim i regionalnim međuvladinim organizacijama i ostalim tijelima, uključujući vladine i nevladine agencije u provedbi regionalnog i globalnog nadzora nad duhanom i razmjeni podataka o pokazateljima navedenim u stavku 3.(a) ovog članka; i

(c) surađivati sa Svjetskom zdravstvenom organizacijom u razvijanju općih smjernica ili postupaka za određivanje uzorka, usporedbe i širenja podataka vezanih uz nadzor nad duhanom.

4. Stranke, sukladno nacionalnom pravu, promiču i omogućavaju razmjenu znanstvenih, tehničkih, socioekonomskih, trgovinskih i pravnih podataka dostupnih javnosti, kao i podataka vezanih uz postupke duhanske industrije i uzgajanja duhana, što je važno za ovu Konvenciju, pri čemu uzimaju u obzir posebne potrebe stranaka zemalja u razvoju i stranaka s gospodarstvima u tranziciji. Svaka stranka nastoji:

(a) razvijati i održavati redovito ažuriranu bazu podataka o zakonima i propisima vezanim uz nadzor nad duhanom i, po potrebi, podacima o njihovom provođenju, kao i o relevantnoj sudskoj praksi te surađivati u razvijanju programa za regionalni i globalni nadzor nad duhanom;

(b) razvijati i održavati redovito ažurirane podatke nacionalnih programa za nadzor u skladu sa stavkom 3.(a) ovoga članka; i

(c) surađivati sa stručnim međunarodnim organizacijama u razvoju i održavanju globalnog sustava za redovno prikupljanje i širenje podataka o proizvodnji duhana i postupcima duhanske industrije koje imaju utjecaja na Konvenciju ili nacionalne aktivnosti za nadzor nad duhanom.

5. Kao članovi regionalnih i međunarodnih međuvladinih organizacija te financijskih institucija i institucija za razvoj, stranke surađuju na promicanju i poticanju pružanja tehničkih i financijskih sredstava Tajništvu s ciljem pružanja podrške strankama zemljama u razvoju i strankama s gospodarstvima u tranziciji, kako bi ispunile svoje obveze glede istraživanja, nadzora i razmjene podataka.

Članak 21.

Izveščivanje i razmjena podataka

1. Svaka stranka, putem Tajništva, podnosi Konferenciji stranaka periodička izvješća o provođenju Konvencije. Ta izvješća trebaju sadržavati sljedeće:

(a) podatke o poduzetim pravnim, izvršnim, upravnim ili drugim mjerama s ciljem provođenja Konvencije;

(b) podatke, po potrebi, o ograničenjima ili preprekama na koje se naišlo pri provođenju Konvencije, kao i o poduzetim mjerama za prevladavanje tih prepreka;

- (c) podatke, po potrebi, o davanju ili primanju financijske i tehničke podrške za aktivnosti vezane uz nadzor nad duhanom;
- (d) podatke o nadzoru i istraživanjima navedenima u članku 20; i
- (e) podacima iz članaka 6.3, 13.2, 13.3, 13.4.(d), 15.5 i 19.2.

2. Učestalost i izgled takvih izvješća podnesenih od strane svih stranaka određuje Konferencija stranaka. Svaka stranka sastavlja početno izvješće u roku od dvije godine od stupanja na snagu Konvencije za tu stranku.

3. Konferencija stranaka, sukladno člancima 22. i 26, razmatra dogovore oko podrške strankama zemljama u razvoju i strankama s gospodarstvima u tranziciji, na njihov zahtjev, kako bi te stranke mogle izvršiti obveze iz ovog članka.

4. Izvješćivanje i razmjena podataka iz ove Konvencije podliježe nacionalnom pravu o povjerljivosti i tajnosti. Stranke, po zajedničkom dogovoru, štite sve povjerljive podatke koje razmjenjuju.

Članak 22.

Suradnja na znanstvenim, tehničkim i pravnim područjima i pružanje stručne podrške iz navedenih područja

1. Stranke surađuju, izravno ili preko nadležnih međunarodnih tijela, kako bi poboljšale svoju sposobnost ispunjavanja obveza koje proizlaze iz ove Konvencije, uzimajući u obzir potrebe stranaka zemalja u razvoju i stranaka s gospodarstvima u tranziciji. Takva suradnja promiče, po zajedničkom dogovoru, prijenos tehničke, znanstvene i pravne podrške i tehnologije u svrhu uspostave i poboljšanja nacionalnih strategija, planova i programa za nadzor nad duhanom i ima za cilj, između ostalog:

- (a) olakšavanje razvoja, prijenosa i stjecanja tehnologija, znanja, vještina, sposobnosti i stručnosti koje se odnose na nadzor nad duhanom;
- (b) pružanje tehničke, znanstvene, pravne i druge stručne podrške u svrhu jačanja nacionalnih strategija, planova i programa s ciljem provođenja Konvencije kroz, između ostalog:
 - (i) pružanje podrške, prema zahtjevu, u razvoju snažne zakonske podloge, kao i tehničkih programa, uključujući programe za sprječavanje uvođenja, poticanje na prestanak i zaštitu od izlaganja duhanskom dimu;
 - (ii) pružanje podrške, po potrebi, radnicima u duhanskoj industriji u razvoju odgovarajućih gospodarskih i zakonski održivih alternativnih oblika zarađivanja na način koji je gospodarski održiv; i

- (iii) pružanje podrške, po potrebi, uzgajivačima duhana u prijelazu iz duhanske proizvodnje na zamjenske kulture na način koji je gospodarski održiv;
 - (c) pružiti podršku za potrebnu obuku ili programe senzibilizacije za odgovarajuće osoblje sukladno članku 12;
 - (d) osigurati, po potrebi, potrebne materijale, opremu i zalihe, kao i logističku potporu strategijama, planovima i programima za nadzor nad duhanom;
 - (e) utvrditi načine za nadzor nad duhanom, uključujući sveobuhvatne terapije za liječenje nikotinske ovisnosti; i
 - (f) promicati, po potrebi, istraživanja u svrhu povećanja dostupnosti sveobuhvatnog liječenja nikotinske ovisnosti.
2. Konferencija stranaka promiče i omogućava prijenos tehničke, znanstvene i pravne podrške i tehnologije, zajedno s financijskom podrškom osiguranom sukladno članku 26.

VIII. DIO: INSTITUCIONALNO UREĐENJE I FINACIJSKA SREDSTVA

Članak 23.

Konferencija stranaka

1. Ovime se osniva Konferencija stranaka. Prvu sjednicu Konferencije saziva Svjetska zdravstvena organizacija ne kasnije od jedne godine nakon stupanja ove Konvencije na snagu. Konferencija će na prvoj sjednici odrediti mjesto i vrijeme sljedećih redovitih sjednica.
2. Izvanredne sjednice Konferencije stranaka održat će se kada ih Konferencija ocijeni potrebnim, ili na pisani zahtjev jedne od stranaka, samo u slučaju da njezin zahtjev podrži barem jedna trećina svih stranaka, u roku od šest mjeseci po primitku obavijesti o takvom zahtjevu od Tajništva Konferencije.
3. Konferencija stranaka jednoglasno će usvojiti Poslovnik na prvoj sjednici.
4. Konferencija stranaka jednoglasno će usvojiti financijska pravila za svoja postupanja kao i za upravljanja sredstvima svih pomoćnih tijela koja uspostavlja kao i financijska pravila za upravljanje radom Tajništva. Na svakoj redovitoj sjednici Konferencija usvaja proračun za financijsko razdoblje koje traje do održavanja sljedeće redovite sjednice.

5. Konferencija stranaka podnosi redovita izvješća o provođenju ove Konvencije i donosi odluke potrebne za promicanje učinkovite provedbe Konvencije te može usvajati protokole, dodatke, izmjene i dopune Konvenciji, sukladno člancima 28, 29, i 33. U svrhu toga, Konferencija:

- (a) promiče i omogućuje razmjenu podataka sukladno člancima 20. i 21;
- (b) promiče i upravlja razvojem i periodičkim poboljšanjima usporednih metodologija za razvoj i prikupljanja podataka, povrh onih iz članka 20. koji se odnose na provođenje Konvencije;
- (c) promiče, po potrebi, razvoj, provođenje i procjenu strategija, planova i programa, kao i politika, zakonodavstava i ostalih mjera;
- (d) razmatra izvješća koje podnose stranke u skladu s člankom 21. i usvaja redovita izvješća o provođenju Konvencije;
- (e) promiče i omogućava prikupljanje financijskih sredstava za provođenje Konvencije, sukladno članku 26.;
- (f) osniva pomoćna tijela potrebna za postizanje ciljeva Konvencije;
- (g) traži, po potrebi, usluge i suradnju, kao i podatke, od stručnih i mjerodavnih organizacija i tijela iz sustava Ujedinjenih naroda i ostalih međunarodnih i regionalnih međuvladinih organizacija kao i nevladinih organizacija i tijela, u svrhu jačanja provedbe Konvencije; i
- (h) po potrebi razmatra ostale načine djelovanja za postizanje ciljeva Konvencije s obzirom na iskustva stečena tijekom njene provedbe.

6. Konferencija stranaka uspostavlja kriterije za sudjelovanje promatrača na njezinim sastancima.

Članak 24. *Tajništvo*

1. Konferencija stranaka imenuje stalno Tajništvo i organizira njegov rad. Konferencija stranaka nastoji to učiniti na svojoj prvoj sjednici.

2. Radom Tajništva sukladno ovoj Konvenciji upravlja Svjetska zdravstvena organizacija do imenovanja i osnivanja Stalnog tajništva.

3. Djelokrug Tajništva čini:

- (a) organiziranje sjednica Konferencije stranaka i ostalih pomoćnih tijela i pružanje potrebnih usluga;

- (b) prosljeđivanje izvještaja u skladu s Konvencijom;
- (c) pružanje podrške strankama, na zahtjev, posebice strankama zemljama u razvoju i strankama s gospodarstvima u tranziciji, u vidu prikupljanja i davanja potrebnih podataka sukladno odredbama Konvencije;
- (d) pripremanje izvještaja o svojim aktivnostima prema Konvenciji i prema uputama Konferencije stranaka te dostava istih Konferenciji stranaka;
- (e) osiguravanje, prema uputama Konferencije stranaka, potrebnih usklađivanja s stručnim međunarodnim i regionalnim međuvladinim organizacijama i drugim tijelima;
- (f) sklapanja, prema uputama Konferencije stranaka, takvih administrativnih dogovora ili ugovora koji su neophodni za njezino učinkovito obavljanje uloge;
- (g) obavljanje drugih zadataka Tajništva navedenih u ovoj Konvenciji i u svim njezinim protokolima, kao i ostalih zadataka koje utvrdi Konferencija stranaka.

Članak 25.

Odnosi između Konferencije stranaka i međuvladinih organizacija

U svrhu osiguranja tehničke i financijske suradnje za postizanje ciljeva ove Konvencije, Konferencija stranaka može zatražiti sudjelovanje stručnih međunarodnih i regionalnih međuvladinih organizacija i drugih tijela uključujući financijske institucije i institucije za razvoj.

Članak 26.

Financijska sredstva

1. Stranke priznaju značajnu ulogu financijskih sredstava u postizanju svrhe ove Konvencije.
2. Svaka stranka pruža financijsku podršku svojim nacionalnim aktivnostima u svrhu postizanja ciljeva Konvencije u skladu sa svojim nacionalnim planovima, prioritetima i programima.
3. Stranke, po potrebi, promiču korištenje bilateralnih, regionalnih, subregionalnih i ostalih multilateralnih putova za financiranje razvoja i jačanja sveobuhvatnih multisektorskih programa za nadzor nad duhanom kod stranaka zemalja u razvoju i stranaka s gospodarstvima u tranziciji. Sukladno tome, moraju se predložiti i poduprijeti, u okviru nacionalnih razvojnih strategija za održiv razvoj, gospodarski održive alternative proizvodnji duhana, uključujući uzgoj raznolikih poljoprivrednih usjeva.

4. Stranke koje su zastupljene u važnim regionalnim i međunarodnim međuvladinim organizacijama, kao i u financijskim institucijama i institucijama za razvoj, potiču navedene subjekte na pružanje financijske podrške strankama zemljama u razvoju i strankama s gospodarstvima u tranziciji kako bi ih podržale u izvršavanju obveza iz Konvencije, bez ograničavanja prava na sudjelovanje unutar ovih organizacija.

5. Stranke su suglasne da će:

(a) prikupljati i koristiti na dobrobit svih stranaka, posebice stranaka zemalja u razvoju i stranaka s gospodarstvima u tranziciji, sva značajna potencijalna i postojeća financijska, tehnička te druga sredstva kako bi pomogle ostalim strankama u izvršavanju njihovih obveza prema ovoj Konvenciji;

(b) Tajništvo, na zahtjev, savjetuje stranke zemlje u razvoju i stranke s gospodarstvima u tranziciji o dostupnim sredstvima za financiranje provođenja njihovih obveza prema ovoj Konvenciji;

(c) Konferencija stranaka na svojim prvim sjednicama ocijeniti postojeća i potencijalna sredstva i mehanizme podrške na temelju istraživanja provedenog od strane Tajništva i na temelju ostalih važnih podataka te razmotriti njihovu prikladnost; i

(d) Konferencija stranaka uzeti u obzir rezultate ovog ocjenjivanja pri određivanju važnosti poboljšanja postojećih mehanizama ili uspostave dobrovoljnog globalnog fonda ili drugih odgovarajućih financijskih mehanizama za usmjeravanje dodatnih financijskih sredstava, po potrebi, u stranke zemlje u razvoju i stranke s gospodarstvima u tranziciji kako bi im pomogle u izvršavanju obveza prema Konvenciji.

IX. DIO: RJEŠAVANJE SPOROVA

Članak 27.

Rješavanje sporova

1. U slučaju nastanka spora između dvije ili više stranaka glede tumačenja ili primjene ove Konvencije, navedene stranke nastojat će spor riješiti diplomatskim putem i to pregovorima ili bilo kojim drugim, po vlastitom izboru, mirnim načinom, uključujući dobre usluge, posredovanje ili mirenje. Nemogućnost postizanja dogovora putem usluga ili posredovanjem ili mirenjem, ne oslobađa stranke uključene u spor od odgovornosti za traženje načina za rješenje spora.

2. Prilikom ratifikacije, prihvata, odobrenja, formalnog potvrđivanja ili pristupa Konvenciji, ili bilo kada nakon toga, država ili organizacija regionalne ekonomske integracije može depozitaru izjaviti u pisanom obliku da prihvaća, kao obvezatnu, *ad*

hoc arbitražu za sporove koji nisu riješeni sukladno stavku 1. ovog članka, sukladno postupcima koje će Konferencija stranaka jednoglasno usvojiti.

3. Odredbe ovog članka primjenjuju se na sve protokole između stranaka protokola, osim ako nije drugačije određeno.

X. DIO: RAZVOJ KONVENCIJE

Članak 28.

Izmjene i dopune Konvencije

1. Bilo koja stranka može predložiti izmjene i dopune Konvencije. Takve izmjene i dopune razmatrat će se na Konferenciji stranaka.

2. Izmjene i dopune Konvencije usvaja Konferencija stranaka. Prijedlog teksta izmjene i dopune Konvencije, strankama priopćuje Tajništvo najmanje šest mjeseci prije sjednice na kojoj će se razmatrati njezino usvajanje. Tajništvo, također, priopćava prijedloge izmjena i dopuna potpisnicama Konvencije i, kao obavijest, depozitaru.

3. Stranke nastoje jednoglasno postići dogovor oko svakog prijedloga izmjene i dopune ove Konvencije. Ako su sve mogućnosti za jednoglasno postizanja dogovora iscrpljene, a nije postignut nikakav dogovor, izmjena i dopuna se može, kao posljednja mogućnost, usvojiti tročetvrtinskom većinom glasova svih prisutnih stranaka i njihovim glasovanjem na sjednici. U svrhu ovog članka, prisutne stranke i stranke koje glasuju su stranke koje glasaju za ili protiv. Tajništvo priopćava sve usvojene izmjene i dopune depozitaru, koji ga potom šalje svim strankama na prihvata.

4. Isprave o prihvatu izmjena i dopuna polažu se kod depozitara. Izmjena i dopuna, koja je prihvaćena sukladno stavku 3. ovog članka, stupa na snagu za one stranke koje su je prihvatile devedeset dana nakon datuma kada depozitar primi isprave o prihvatu najmanje dviju trećina stranaka Konvencije.

5. Izmjena i dopuna stupa na snagu za ostale stranke devedeset dana nakon datuma polaganja isprave o prihvatu navedene izmjene i dopune od strane stranke kod depozitara.

Članak 29.

Usvajanje i izmjena i dopuna dodatka Konvenciji

1. Dodaci Konvenciji i njihove izmjene i dopune predlažu se, usvajaju i stupaju na snagu sukladno postupku navedenom u članku 28.

2. Dodaci Konvenciji čine sastavni dio Konvencije, ukoliko nije drugačije izričito navedeno te upućivanje na Konvenciju u isto vrijeme predstavlja i upućivanje na bilo koji od njezinih dodataka.

3. Dodaci se ograničavaju na popise, obrasce i bilo koje druge opisne materijale koji se odnose na postupovna, znanstvena, tehnička ili administrativna pitanja.

XI. DIO: ZAVRŠNE ODREDBE

Članak 30.

Rezerve

Na ovu Konvenciju ne mogu se staviti rezerve.

Članak 31.

Povlačenje

1. Bilo kada nakon dvije godine od datuma stupanja na snagu ove Konvencije za neku stranku, ta se stranka može povući iz Konvencije dostavljajući pisanu obavijest depozitaru.
2. Svako takvo povlačenje proizvodi učinak po isteku jedne godine od datuma primitka obavijesti o povlačenju od strane depozitara, ili od kasnijeg datuma koji može biti naveden u obavijesti o povlačenju.
3. Za svaku stranku koja se povuče iz Konvencije smatrat će se da se ista, također, povukla i iz svakog protokola kojeg je bila stranka.

Članak 32.

Pravo glasovanja

1. Svaka stranka ove Konvencije ima jedan glas s iznimkom navedenom u stavku 2. ovog članka.
2. Organizacije regionalnih ekonomskih integracija, u okviru svoje nadležnosti, imaju pravo na onaj broj glasova koji je jednak broju njihovih država članica koje su stranke ove Konvencije. Takva organizacija ne ostvaruje pravo na glasovanje ako bilo koja od njezinih država članica ostvari svoje pravo i obrnuto.

Članak 33.

Protokoli

1. Svaka stranka može predlagati protokole. Takvi će se prijedlozi razmatrati na Konferenciji stranaka.
2. Konferencija stranaka može usvajati protokole uz Konvenciju. Nastojat će se postići da usvajanju tih protokola bude jednoglasno. Ako su sve mogućnosti za jednoglasno postizanje dogovora iscrpljene, a nije postignut nikakav dogovor, protokol se može, kao posljednja mogućnost, usvojiti tročetvrtinskom većinom glasova svih

prisutnih stranaka i njihovim glasovanjem na sjednici. U svrhu ovog članka, prisutne stranke i stranke koje glasuju su stranke koje glasuju za ili protiv.

3. Tekst bilo kojeg predloženog protokola strankama će priopćiti Tajništvo najmanje šest mjeseci prije sjednice na kojoj se predlaže usvajanje protokola.

4. Samo stranke ove Konvencije mogu biti stranke protokola.

5. Svi protokoli ove Konvencije su obvezujući samo za stranke spomenutih protokola. Odluke o pitanjima koja se posebno odnose na određeni protokol mogu donositi samo stranke tog protokola.

6. Uvjeti potrebni za stupanje na snagu svakog protokola ustanovljavaju se samim protokolom.

Članak 34. *Potpisivanje*

Ova Konvencija otvorena je za potpisivanje od strane svih članica Svjetske zdravstvene organizacije i svih država koje nisu članice Svjetske zdravstvene organizacije, a članice su Ujedinjenih naroda, kao i od strane organizacija regionalnih ekonomskih integracija od 16. do 22. lipnja 2003. godine u sjedištu Svjetske zdravstvene organizacije u Ženevi, a potom od 30. lipnja 2003. do 29. lipnja 2004. godine u sjedištu Ujedinjenih naroda u New Yorku.

Članak 35. *Ratifikacija, prihvata, odobrenje, formalno potvrđivanje ili pristup Konvenciji*

1. Ova Konvencija podliježe ratifikaciji, prihvatu, odobrenju ili pristupu od strane država i formalnom potvrđivanju ili pristupu od strane organizacija regionalnih ekonomskih integracija. Ona je otvorena za pristupanje od dana nakon datuma kada se zatvara za potpisivanje. Isprave o ratifikaciji, prihvatu, odobrenju, formalnom potvrđivanju ili pristupu polažu se kod depozitara.

2. Svaka organizacija regionalne ekonomske integracije koja postane stranka Konvencije bez da to učine njezine države članice bit će vezana svim obvezama iz Konvencije. U slučaju organizacije kojoj su jedna ili više država članica stranke Konvencije, navedena organizacija i njezine države članice odlučuju o svojim odgovornostima glede izvršavanja obveza iz Konvencije. U takvim slučajevima, organizacija i države članice neće istodobno ostvarivati prava iz Konvencije.

3. Organizacije regionalnih ekonomskih integracija proglašavaju, ispravama o formalnom potvrđivanju ili ispravama o pristupu, okvir svoje nadležnosti koji se odnosi na pitanja Konvencije. Takve organizacije, također, obavještavaju depozitara,

koji potom obavještava stranke o svim značajnim preinakama u okviru njihovih nadležnosti.

Članak 36.
Stupanje na snagu

1. Ova Konvencija stupa na snagu devedesetog dana od datuma polaganja kod depozitara četrdesete isprave o ratifikaciji, prihvatu, odobrenju, formalnoj potvrdi ili pristupu.
2. Za svaku državu koja ratificira, prihvati ili odobri Konvenciju ili joj pristupi nakon ispunjenja uvjeta iz stavka 1. ovog članka, Konvencija stupa na snagu devedesetog dana od datuma polaganja njezine isprave o ratifikaciji, prihvatu, odobrenju, ili pristupu.
3. Za svaku organizaciju regionalne ekonomske integracije koja polaže ispravu o službenoj potvrdi, ili isprave o pristupu, nakon ispunjenja uvjeta za stupanje na snagu iz stavka 1. ovog članka, Konvencija stupa na snagu devedesetog dana od datuma od kada je stranka položila ispravu o službenoj potvrdi ili pristupu Konvenciji.
4. Za potrebe ovog članka, bilo koja isprava položena od strane organizacije regionalnih ekonomskih integracija ne smatra se dodatnom ispravom uz isprave koje su položile države članice te organizacije.

Članak 37.
Depozitar

Depozitar ove Konvencije i njenih izmjena, protokola i dodataka, koji su usvojeni sukladno člancima 28, 29. i 33, je glavni tajnik Ujedinjenih naroda.

Članak 38.
Vjerodostojni tekstovi

Izvornik ove Konvencije, čiji su arapski, kineski, engleski, francuski, ruski i španjolski tekstovi jednako vjerodostojni, polaže se kod glavnog tajnika Ujedinjenih naroda.

U POTVRDU TOGA niže potpisani, za to propisno ovlašteni, potpisali su ovu Konvenciju

SASTAVLJENO u ŽENEVI, dvadesetiprvi svibnja dvijetisućitreće godine.

WHO FRAMEWORK CONVENTION ON TOBACCO CONTROL

Preamble

The Parties to this Convention,

Determined to give priority to their right to protect public health,

Recognizing that the spread of the tobacco epidemic is a global problem with serious consequences for public health that calls for the widest possible international cooperation and the participation of all countries in an effective, appropriate and comprehensive international response,

Reflecting the concern of the international community about the devastating worldwide health, social, economic and environmental consequences of tobacco consumption and exposure to tobacco smoke,

Seriously concerned about the increase in the worldwide consumption and production of cigarettes and other tobacco products, particularly in developing countries, as well as about the burden this places on families, on the poor, and on national health systems,

Recognizing that scientific evidence has unequivocally established that tobacco consumption and exposure to tobacco smoke cause death, disease and disability, and that there is a time lag between the exposure to smoking and the other uses of tobacco products and the onset of tobacco-related diseases,

Recognizing also that cigarettes and some other products containing tobacco are highly engineered so as to create and maintain dependence, and that many of the compounds they contain and the smoke they produce are pharmacologically active, toxic, mutagenic and carcinogenic, and that tobacco dependence is separately classified as a disorder in major international classifications of diseases,

Acknowledging that there is clear scientific evidence that prenatal exposure to tobacco smoke causes adverse health and developmental conditions for children,

Deeply concerned about the escalation in smoking and other forms of tobacco consumption by children and adolescents worldwide, particularly smoking at increasingly early ages,

Alarmed by the increase in smoking and other forms of tobacco consumption by women and young girls worldwide and keeping in mind the need for full participation of women at all levels of policy-making and implementation and the need for gender-specific tobacco control strategies,

Deeply concerned about the high levels of smoking and other forms of tobacco consumption by indigenous peoples,

Seriously concerned about the impact of all forms of advertising, promotion and sponsorship aimed at encouraging the use of tobacco products,

Recognizing that cooperative action is necessary to eliminate all forms of illicit trade in cigarettes and other tobacco products, including smuggling, illicit manufacturing and counterfeiting,

Acknowledging that tobacco control at all levels and particularly in developing countries and in countries with economies in transition requires sufficient financial and technical resources commensurate with the current and projected need for tobacco control activities,

Recognizing the need to develop appropriate mechanisms to address the long-term social and economic implications of successful tobacco demand reduction strategies,

Mindful of the social and economic difficulties that tobacco control programmes may engender in the medium and long term in some developing countries and countries with economies in transition, and recognizing their need for technical and financial assistance in the context of nationally developed strategies for sustainable development,

Conscious of the valuable work being conducted by many States on tobacco control and commending the leadership of the World Health Organization as well as the efforts of other organizations and bodies of the United Nations system and other international and regional intergovernmental organizations in developing measures on tobacco control,

Emphasizing the special contribution of nongovernmental organizations and other members of civil society not affiliated with the tobacco industry, including health professional bodies, women's, youth, environmental and consumer groups, and academic and health care institutions, to tobacco control efforts nationally and internationally and the vital importance of their participation in national and international tobacco control efforts,

Recognizing the need to be alert to any efforts by the tobacco industry to undermine or subvert tobacco control efforts and the need to be informed of activities of the tobacco industry that have a negative impact on tobacco control efforts,

Recalling Article 12 of the International Covenant on Economic, Social and Cultural Rights, adopted by the United Nations General Assembly on 16 December 1966, which states that it is the right of everyone to the enjoyment of the highest attainable standard of physical and mental health,

Recalling also the preamble to the Constitution of the World Health Organization, which states that the enjoyment of the highest attainable standard of health is one of the fundamental rights of every human being without distinction of race, religion, political belief, economic or social condition,

Determined to promote measures of tobacco control based on current and relevant scientific, technical and economic considerations,

Recalling that the Convention on the Elimination of All Forms of Discrimination against Women, adopted by the United Nations General Assembly on 18 December 1979, provides that States Parties to that Convention shall take appropriate measures to eliminate discrimination against women in the field of health care,

Recalling further that the Convention on the Rights of the Child, adopted by the United Nations General Assembly on 20 November 1989, provides that States Parties to that Convention recognize the right of the child to the enjoyment of the highest attainable standard of health,

Have agreed, as follows:

PART I: INTRODUCTION

Article 1

Use of terms

For the purposes of this Convention:

- (a) “illicit trade” means any practice or conduct prohibited by law and which relates to production, shipment, receipt, possession, distribution, sale or purchase including any practice or conduct intended to facilitate such activity;
- (b) “regional economic integration organization” means an organization that is composed of several sovereign states, and to which its Member States have transferred competence over a range of matters, including the authority to make decisions binding on its Member States in respect of those matters;¹
- (c) “tobacco advertising and promotion” means any form of commercial communication, recommendation or action with the aim, effect or likely effect of promoting a tobacco product or tobacco use either directly or indirectly;
- (d) “tobacco control” means a range of supply, demand and harm reduction strategies that aim to improve the health of a population by eliminating or reducing their consumption of tobacco products and exposure to tobacco smoke;

¹ Where appropriate, national will refer equally to regional economic integration organizations.

(e) “tobacco industry” means tobacco manufacturers, wholesale distributors and importers of tobacco products;

(f) “tobacco products” means products entirely or partly made of the leaf tobacco as raw material which are manufactured to be used for smoking, sucking, chewing or snuffing;

(g) “tobacco sponsorship” means any form of contribution to any event, activity or individual with the aim, effect or likely effect of promoting a tobacco product or tobacco use either directly or indirectly;

Article 2

Relationship between this Convention and other agreements and legal instruments

1. In order to better protect human health, Parties are encouraged to implement measures beyond those required by this Convention and its protocols, and nothing in these instruments shall prevent a Party from imposing stricter requirements that are consistent with their provisions and are in accordance with international law.

2. The provisions of the Convention and its protocols shall in no way affect the right of Parties to enter into bilateral or multilateral agreements, including regional or subregional agreements, on issues relevant or additional to the Convention and its protocols, provided that such agreements are compatible with their obligations under the Convention and its protocols. The Parties concerned shall communicate such agreements to the Conference of the Parties through the Secretariat.

PART II: OBJECTIVE, GUIDING PRINCIPLES AND GENERAL OBLIGATIONS

Article 3

Objective

The objective of this Convention and its protocols is to protect present and future generations from the devastating health, social, environmental and economic consequences of tobacco consumption and exposure to tobacco smoke by providing a framework for tobacco control measures to be implemented by the Parties at the national, regional and international levels in order to reduce continually and substantially the prevalence of tobacco use and exposure to tobacco smoke.

Article 4

Guiding principles

To achieve the objective of this Convention and its protocols and to implement its provisions, the Parties shall be guided, inter alia, by the principles set out below:

1. Every person should be informed of the health consequences, addictive nature and mortal threat posed by tobacco consumption and exposure to tobacco smoke and effective legislative, executive, administrative or other measures should be contemplated at the appropriate governmental level to protect all persons from exposure to tobacco smoke.
2. Strong political commitment is necessary to develop and support, at the national, regional and international levels, comprehensive multisectoral measures and coordinated responses, taking into consideration:
 - (a) the need to take measures to protect all persons from exposure to tobacco smoke;
 - (b) the need to take measures to prevent the initiation, to promote and support cessation, and to decrease the consumption of tobacco products in any form;
 - (c) the need to take measures to promote the participation of indigenous individuals and communities in the development, implementation and evaluation of tobacco control programmes that are socially and culturally appropriate to their needs and perspectives; and
 - (d) the need to take measures to address gender-specific risks when developing tobacco control strategies.
3. International cooperation, particularly transfer of technology, knowledge and financial assistance and provision of related expertise, to establish and implement effective tobacco control programmes, taking into consideration local culture, as well as social, economic, political and legal factors, is an important part of the Convention.
4. Comprehensive multisectoral measures and responses to reduce consumption of all tobacco products at the national, regional and international levels are essential so as to prevent, in accordance with public health principles, the incidence of diseases, premature disability and mortality due to tobacco consumption and exposure to tobacco smoke.
5. Issues relating to liability, as determined by each Party within its jurisdiction, are an important part of comprehensive tobacco control.
6. The importance of technical and financial assistance to aid the economic transition of tobacco growers and workers whose livelihoods are seriously affected as a consequence of tobacco control programmes in developing country Parties, as well as Parties with economies in transition, should be recognized and addressed in the context of nationally developed strategies for sustainable development.

7. The participation of civil society is essential in achieving the objective of the Convention and its protocols.

Article 5
General obligations

1. Each Party shall develop, implement, periodically update and review comprehensive multisectoral national tobacco control strategies, plans and programmes in accordance with this Convention and the protocols to which it is a Party.
2. Towards this end, each Party shall, in accordance with its capabilities:
 - (a) establish or reinforce and finance a national coordinating mechanism or focal points for tobacco control; and
 - (b) adopt and implement effective legislative, executive, administrative and/or other measures and cooperate, as appropriate, with other Parties in developing appropriate policies for preventing and reducing tobacco consumption, nicotine addiction and exposure to tobacco smoke.
3. In setting and implementing their public health policies with respect to tobacco control, Parties shall act to protect these policies from commercial and other vested interests of the tobacco industry in accordance with national law.
4. The Parties shall cooperate in the formulation of proposed measures, procedures and guidelines for the implementation of the Convention and the protocols to which they are Parties.
5. The Parties shall cooperate, as appropriate, with competent international and regional intergovernmental organizations and other bodies to achieve the objectives of the Convention and the protocols to which they are Parties.
6. The Parties shall, within means and resources at their disposal, cooperate to raise financial resources for effective implementation of the Convention through bilateral and multilateral funding mechanisms.

**PART III: MEASURES RELATING TO THE REDUCTION
OF DEMAND FOR TOBACCO**

Article 6
Price and tax measures to reduce the demand for tobacco

1. The Parties recognize that price and tax measures are an effective and important means of reducing tobacco consumption by various segments of the population, in particular young persons.

2. Without prejudice to the sovereign right of the Parties to determine and establish their taxation policies, each Party should take account of its national health objectives concerning tobacco control and adopt or maintain, as appropriate, measures which may include:

- (a) implementing tax policies and, where appropriate, price policies, on tobacco products so as to contribute to the health objectives aimed at reducing tobacco consumption; and
- (b) prohibiting or restricting, as appropriate, sales to and/or importations by international travellers of tax- and duty-free tobacco products.

3. The Parties shall provide rates of taxation for tobacco products and trends in tobacco consumption in their periodic reports to the Conference of the Parties, in accordance with Article 21.

Article 7

Non-price measures to reduce the demand for tobacco

The Parties recognize that comprehensive non-price measures are an effective and important means of reducing tobacco consumption. Each Party shall adopt and implement effective legislative, executive, administrative or other measures necessary to implement its obligations pursuant to Articles 8 to 13 and shall cooperate, as appropriate, with each other directly or through competent international bodies with a view to their implementation. The Conference of the Parties shall propose appropriate guidelines for the implementation of the provisions of these Articles.

Article 8

Protection from exposure to tobacco smoke

1. Parties recognize that scientific evidence has unequivocally established that exposure to tobacco smoke causes death, disease and disability.

2. Each Party shall adopt and implement in areas of existing national jurisdiction as determined by national law and actively promote at other jurisdictional levels the adoption and implementation of effective legislative, executive, administrative and/or other measures, providing for protection from exposure to tobacco smoke in indoor workplaces, public transport, indoor public places and, as appropriate, other public places.

Article 9

Regulation of the contents of tobacco products

The Conference of the Parties, in consultation with competent international bodies, shall propose guidelines for testing and measuring the contents and emissions of tobacco products, and for the regulation of these contents and emissions. Each

Party shall, where approved by competent national authorities, adopt and implement effective legislative, executive and administrative or other measures for such testing and measuring, and for such regulation.

Article 10

Regulation of tobacco product disclosures

Each Party shall, in accordance with its national law, adopt and implement effective legislative, executive, administrative or other measures requiring manufacturers and importers of tobacco products to disclose to governmental authorities information about the contents and emissions of tobacco products. Each Party shall further adopt and implement effective measures for public disclosure of information about the toxic constituents of the tobacco products and the emissions that they may produce.

Article 11

Packaging and labelling of tobacco products

1. Each Party shall, within a period of three years after entry into force of this Convention for that Party, adopt and implement, in accordance with its national law, effective measures to ensure that:

(a) tobacco product packaging and labelling do not promote a tobacco product by any means that are false, misleading, deceptive or likely to create an erroneous impression about its characteristics, health effects, hazards or emissions, including any term, descriptor, trademark, figurative or any other sign that directly or indirectly creates the false impression that a particular tobacco product is less harmful than other tobacco products. These may include terms such as “low tar”, “light”, “ultra-light”, or “mild”; and

(b) each unit packet and package of tobacco products and any outside packaging and labelling of such products also carry health warnings describing the harmful effects of tobacco use, and may include other appropriate messages. These warnings and messages:

(i) shall be approved by the competent national authority,

(ii) shall be rotating,

(iii) shall be large, clear, visible and legible,

(iv) should be 50% or more of the principal display areas but shall be no less than 30% of the principal display areas,

(v) may be in the form of or include pictures or pictograms.

2. Each unit packet and package of tobacco products and any outside packaging and labelling of such products shall, in addition to the warnings specified in paragraph

1(b) of this Article, contain information on relevant constituents and emissions of tobacco products as defined by national authorities.

3. Each Party shall require that the warnings and other textual information specified in paragraphs 1(b) and paragraph 2 of this Article will appear on each unit packet and package of tobacco products and any outside packaging and labelling of such products in its principal language or languages.

4. For the purposes of this Article, the term “outside packaging and labelling” in relation to tobacco products applies to any packaging and labelling used in the retail sale of the product.

Article 12

Education, communication, training and public awareness

Each Party shall promote and strengthen public awareness of tobacco control issues, using all available communication tools, as appropriate. Towards this end, each Party shall adopt and implement effective legislative, executive, administrative or other measures to promote:

(a) broad access to effective and comprehensive educational and public awareness programmes on the health risks including the addictive characteristics of tobacco consumption and exposure to tobacco smoke;

(b) public awareness about the health risks of tobacco consumption and exposure to tobacco smoke, and about the benefits of the cessation of tobacco use and tobacco-free lifestyles as specified in Article 14.2;

(c) public access, in accordance with national law, to a wide range of information on the tobacco industry as relevant to the objective of this Convention;

(d) effective and appropriate training or sensitization and awareness programmes on tobacco control addressed to persons such as health workers, community workers, social workers, media professionals, educators, decision-makers, administrators and other concerned persons;

(e) awareness and participation of public and private agencies and nongovernmental organizations not affiliated with the tobacco industry in developing and implementing intersectoral programmes and strategies for tobacco control; and

(f) public awareness of and access to information regarding the adverse health, economic, and environmental consequences of tobacco production and consumption.

Article 13*Tobacco advertising, promotion and sponsorship*

1. Parties recognize that a comprehensive ban on advertising, promotion and sponsorship would reduce the consumption of tobacco products.
2. Each Party shall, in accordance with its constitution or constitutional principles, undertake a comprehensive ban of all tobacco advertising, promotion and sponsorship. This shall include, subject to the legal environment and technical means available to that Party, a comprehensive ban on cross-border advertising, promotion and sponsorship originating from its territory. In this respect, within the period of five years after entry into force of this Convention for that Party, each Party shall undertake appropriate legislative, executive, administrative and/or other measures and report accordingly in conformity with Article 21.
3. A Party that is not in a position to undertake a comprehensive ban due to its constitution or constitutional principles shall apply restrictions on all tobacco advertising, promotion and sponsorship. This shall include, subject to the legal environment and technical means available to that Party, restrictions or a comprehensive ban on advertising, promotion and sponsorship originating from its territory with cross-border effects. In this respect, each Party shall undertake appropriate legislative, executive, administrative and/or other measures and report accordingly in conformity with Article 21.
4. As a minimum, and in accordance with its constitution or constitutional principles, each Party shall:
 - (a) prohibit all forms of tobacco advertising, promotion and sponsorship that promote a tobacco product by any means that are false, misleading or deceptive or likely to create an erroneous impression about its characteristics, health effects, hazards or emissions;
 - (b) require that health or other appropriate warnings or messages accompany all tobacco advertising and, as appropriate, promotion and sponsorship;
 - (c) restrict the use of direct or indirect incentives that encourage the purchase of tobacco products by the public;
 - (d) require, if it does not have a comprehensive ban, the disclosure to relevant governmental authorities of expenditures by the tobacco industry on advertising, promotion and sponsorship not yet prohibited. Those authorities may decide to make those figures available, subject to national law, to the public and to the Conference of the Parties, pursuant to Article 21;
 - (e) undertake a comprehensive ban or, in the case of a Party that is not in a position to undertake a comprehensive ban due to its constitution or

constitutional principles, restrict tobacco advertising, promotion and sponsorship on radio, television, print media and, as appropriate, other media, such as the internet, within a period of five years; and

(f) prohibit, or in the case of a Party that is not in a position to prohibit due to its constitution or constitutional principles restrict, tobacco sponsorship of international events, activities and/or participants therein.

5. Parties are encouraged to implement measures beyond the obligations set out in paragraph 4.

6. Parties shall cooperate in the development of technologies and other means necessary to facilitate the elimination of cross-border advertising.

7. Parties which have a ban on certain forms of tobacco advertising, promotion and sponsorship have the sovereign right to ban those forms of cross-border tobacco advertising, promotion and sponsorship entering their territory and to impose equal penalties as those applicable to domestic advertising, promotion and sponsorship originating from their territory in accordance with their national law. This paragraph does not endorse or approve of any particular penalty.

8. Parties shall consider the elaboration of a protocol setting out appropriate measures that require international collaboration for a comprehensive ban on cross-border advertising, promotion and sponsorship.

Article 14

Demand reduction measures concerning tobacco dependence and cessation

1. Each Party shall develop and disseminate appropriate, comprehensive and integrated guidelines based on scientific evidence and best practices, taking into account national circumstances and priorities, and shall take effective measures to promote cessation of tobacco use and adequate treatment for tobacco dependence.

2. Towards this end, each Party shall endeavour to:

(a) design and implement effective programmes aimed at promoting the cessation of tobacco use, in such locations as educational institutions, health care facilities, workplaces and sporting environments;

(b) include diagnosis and treatment of tobacco dependence and counselling services on cessation of tobacco use in national health and education programmes, plans and strategies, with the participation of health workers, community workers and social workers as appropriate;

(c) establish in health care facilities and rehabilitation centres programmes for diagnosing, counselling, preventing and treating tobacco dependence; and

(d) collaborate with other Parties to facilitate accessibility and affordability for treatment of tobacco dependence including pharmaceutical products pursuant to Article 22. Such products and their constituents may include medicines, products used to administer medicines and diagnostics when appropriate.

PART IV: MEASURES RELATING TO THE REDUCTION OF THE SUPPLY OF TOBACCO

Article 15

Illicit trade in tobacco products

1. The Parties recognize that the elimination of all forms of illicit trade in tobacco products, including smuggling, illicit manufacturing and counterfeiting, and the development and implementation of related national law, in addition to subregional, regional and global agreements, are essential components of tobacco control.

2. Each Party shall adopt and implement effective legislative, executive, administrative or other measures to ensure that all unit packets and packages of tobacco products and any outside packaging of such products are marked to assist Parties in determining the origin of tobacco products, and in accordance with national law and relevant bilateral or multilateral agreements, assist Parties in determining the point of diversion and monitor, document and control the movement of tobacco products and their legal status. In addition, each Party shall:

(a) require that unit packets and packages of tobacco products for retail and wholesale use that are sold on its domestic market carry the statement: "Sales only allowed in (insert name of the country, subnational, regional or federal unit)" or carry any other effective marking indicating the final destination or which would assist authorities in determining whether the product is legally for sale on the domestic market; and

(b) consider, as appropriate, developing a practical tracking and tracing regime that would further secure the distribution system and assist in the investigation of illicit trade.

3. Each Party shall require that the packaging information or marking specified in paragraph 2 of this Article shall be presented in legible form and/or appear in its principal language or languages.

4. With a view to eliminating illicit trade in tobacco products, each Party shall:

(a) monitor and collect data on cross-border trade in tobacco products, including illicit trade, and exchange information among customs, tax and other authorities, as appropriate, and in accordance with national law and relevant applicable bilateral or multilateral agreements;

- (b) enact or strengthen legislation, with appropriate penalties and remedies, against illicit trade in tobacco products, including counterfeit and contraband cigarettes;
 - (c) take appropriate steps to ensure that all confiscated manufacturing equipment, counterfeit and contraband cigarettes and other tobacco products are destroyed, using environmentally-friendly methods where feasible, or disposed of in accordance with national law;
 - (d) adopt and implement measures to monitor, document and control the storage and distribution of tobacco products held or moving under suspension of taxes or duties within its jurisdiction; and
 - (e) adopt measures as appropriate to enable the confiscation of proceeds derived from the illicit trade in tobacco products.
5. Information collected pursuant to subparagraphs 4(a) and 4(d) of this Article shall, as appropriate, be provided in aggregate form by the Parties in their periodic reports to the Conference of the Parties, in accordance with Article 21.
6. The Parties shall, as appropriate and in accordance with national law, promote cooperation between national agencies, as well as relevant regional and international intergovernmental organizations as it relates to investigations, prosecutions and proceedings, with a view to eliminating illicit trade in tobacco products. Special emphasis shall be placed on cooperation at regional and subregional levels to combat illicit trade of tobacco products.
7. Each Party shall endeavour to adopt and implement further measures including licensing, where appropriate, to control or regulate the production and distribution of tobacco products in order to prevent illicit trade.

Article 16

Sales to and by minors

1. Each Party shall adopt and implement effective legislative, executive, administrative or other measures at the appropriate government level to prohibit the sales of tobacco products to persons under the age set by domestic law, national law or eighteen. These measures may include:
- (a) requiring that all sellers of tobacco products place a clear and prominent indicator inside their point of sale about the prohibition of tobacco sales to minors and, in case of doubt, request that each tobacco purchaser provide appropriate evidence of having reached full legal age;
 - (b) banning the sale of tobacco products in any manner by which they are directly accessible, such as store shelves;

- (c) prohibiting the manufacture and sale of sweets, snacks, toys or any other objects in the form of tobacco products which appeal to minors; and
 - (d) ensuring that tobacco vending machines under its jurisdiction are not accessible to minors and do not promote the sale of tobacco products to minors.
2. Each Party shall prohibit or promote the prohibition of the distribution of free tobacco products to the public and especially minors.
 3. Each Party shall endeavour to prohibit the sale of cigarettes individually or in small packets which increase the affordability of such products to minors.
 4. The Parties recognize that in order to increase their effectiveness, measures to prevent tobacco product sales to minors should, where appropriate, be implemented in conjunction with other provisions contained in this Convention.
 5. When signing, ratifying, accepting, approving or acceding to the Convention or at any time thereafter, a Party may, by means of a binding written declaration, indicate its commitment to prohibit the introduction of tobacco vending machines within its jurisdiction or, as appropriate, to a total ban on tobacco vending machines. The declaration made pursuant to this Article shall be circulated by the Depositary to all Parties to the Convention.
 6. Each Party shall adopt and implement effective legislative, executive, administrative or other measures, including penalties against sellers and distributors, in order to ensure compliance with the obligations contained in paragraphs 1-5 of this Article.
 7. Each Party should, as appropriate, adopt and implement effective legislative, executive, administrative or other measures to prohibit the sales of tobacco products by persons under the age set by domestic law, national law or eighteen.

Article 17

Provision of support for economically viable alternative activities

Parties shall, in cooperation with each other and with competent international and regional intergovernmental organizations, promote, as appropriate, economically viable alternatives for tobacco workers, growers and, as the case may be, individual sellers.

PART V: PROTECTION OF THE ENVIRONMENT

Article 18

Protection of the environment and the health of persons

In carrying out their obligations under this Convention, the Parties agree to have due regard to the protection of the environment and the health of persons in relation to the environment in respect of tobacco cultivation and manufacture within their respective territories.

PART VI: QUESTIONS RELATED TO LIABILITY

Article 19

Liability

1. For the purpose of tobacco control, the Parties shall consider taking legislative action or promoting their existing laws, where necessary, to deal with criminal and civil liability, including compensation where appropriate.
2. Parties shall cooperate with each other in exchanging information through the Conference of the Parties in accordance with Article 21 including:
 - (a) information on the health effects of the consumption of tobacco products and exposure to tobacco smoke in accordance with Article 20.3(a); and
 - (b) information on legislation and regulations in force as well as pertinent jurisprudence.
3. The Parties shall, as appropriate and mutually agreed, within the limits of national legislation, policies, legal practices and applicable existing treaty arrangements, afford one another assistance in legal proceedings relating to civil and criminal liability consistent with this Convention.
4. The Convention shall in no way affect or limit any rights of access of the Parties to each other's courts where such rights exist.
5. The Conference of the Parties may consider, if possible, at an early stage, taking account of the work being done in relevant international fora, issues related to liability including appropriate international approaches to these issues and appropriate means to support, upon request, the Parties in their legislative and other activities in accordance with this Article.

PART VII: SCIENTIFIC AND TECHNICAL COOPERATION AND COMMUNICATION OF INFORMATION

Article 20

Research, surveillance and exchange of information

1. The Parties undertake to develop and promote national research and to coordinate research programmes at the regional and international levels in the field of tobacco control. Towards this end, each Party shall:

(a) initiate and cooperate in, directly or through competent international and regional intergovernmental organizations and other bodies, the conduct of research and scientific assessments, and in so doing promote and encourage research that addresses the determinants and consequences of tobacco consumption and exposure to tobacco smoke as well as research for identification of alternative crops; and

(b) promote and strengthen, with the support of competent international and regional intergovernmental organizations and other bodies, training and support for all those engaged in tobacco control activities, including research, implementation and evaluation.

2. The Parties shall establish, as appropriate, programmes for national, regional and global surveillance of the magnitude, patterns, determinants and consequences of tobacco consumption and exposure to tobacco smoke. Towards this end, the Parties should integrate tobacco surveillance programmes into national, regional and global health surveillance programmes so that data are comparable and can be analysed at the regional and international levels, as appropriate.

3. Parties recognize the importance of financial and technical assistance from international and regional intergovernmental organizations and other bodies. Each Party shall endeavour to:

(a) establish progressively a national system for the epidemiological surveillance of tobacco consumption and related social, economic and health indicators;

(b) cooperate with competent international and regional intergovernmental organizations and other bodies, including governmental and nongovernmental agencies, in regional and global tobacco surveillance and exchange of information on the indicators specified in paragraph 3(a) of this Article; and

(c) cooperate with the World Health Organization in the development of general guidelines or procedures for defining the collection, analysis and dissemination of tobacco-related surveillance data.

4. The Parties shall, subject to national law, promote and facilitate the exchange of publicly available scientific, technical, socioeconomic, commercial and legal information, as well as information regarding practices of the tobacco industry and the cultivation of tobacco, which is relevant to this Convention, and in so doing shall take into account and address the special needs of developing country Parties and Parties with economies in transition. Each Party shall endeavour to:

- (a) progressively establish and maintain an updated database of laws and regulations on tobacco control and, as appropriate, information about their enforcement, as well as pertinent jurisprudence, and cooperate in the development of programmes for regional and global tobacco control;
- (b) progressively establish and maintain updated data from national surveillance programmes in accordance with paragraph 3(a) of this Article; and
- (c) cooperate with competent international organizations to progressively establish and maintain a global system to regularly collect and disseminate information on tobacco production, manufacture and the activities of the tobacco industry which have an impact on the Convention or national tobacco control activities.

5. Parties should cooperate in regional and international intergovernmental organizations and financial and development institutions of which they are members, to promote and encourage provision of technical and financial resources to the Secretariat to assist developing country Parties and Parties with economies in transition to meet their commitments on research, surveillance and exchange of information.

Article 21

Reporting and exchange of information

1. Each Party shall submit to the Conference of the Parties, through the Secretariat, periodic reports on its implementation of this Convention, which should include the following:

- (a) information on legislative, executive, administrative or other measures taken to implement the Convention;
- (b) information, as appropriate, on any constraints or barriers encountered in its implementation of the Convention, and on the measures taken to overcome these barriers;
- (c) information, as appropriate, on financial and technical assistance provided or received for tobacco control activities;
- (d) information on surveillance and research as specified in Article 20; and

(e) information specified in Articles 6.3, 13.2, 13.3, 13.4(d), 15.5 and 19.2.

2. The frequency and format of such reports by all Parties shall be determined by the Conference of the Parties. Each Party shall make its initial report within two years of the entry into force of the Convention for that Party.

3. The Conference of the Parties, pursuant to Articles 22 and 26, shall consider arrangements to assist developing country Parties and Parties with economies in transition, at their request, in meeting their obligations under this Article.

4. The reporting and exchange of information under the Convention shall be subject to national law regarding confidentiality and privacy. The Parties shall protect, as mutually agreed, any confidential information that is exchanged.

Article 22

Cooperation in the scientific, technical, and legal fields and provision of related expertise

1. The Parties shall cooperate directly or through competent international bodies to strengthen their capacity to fulfill the obligations arising from this Convention, taking into account the needs of developing country Parties and Parties with economies in transition. Such cooperation shall promote the transfer of technical, scientific and legal expertise and technology, as mutually agreed, to establish and strengthen national tobacco control strategies, plans and programmes aiming at, inter alia:

(a) facilitation of the development, transfer and acquisition of technology, knowledge, skills, capacity and expertise related to tobacco control;

(b) provision of technical, scientific, legal and other expertise to establish and strengthen national tobacco control strategies, plans and programmes, aiming at implementation of the Convention through, inter alia:

(i) assisting, upon request, in the development of a strong legislative foundation as well as technical programmes, including those on prevention of initiation, promotion of cessation and protection from exposure to tobacco smoke;

(ii) assisting, as appropriate, tobacco workers in the development of appropriate economically and legally viable alternative livelihoods in an economically viable manner; and

(iii) assisting, as appropriate, tobacco growers in shifting agricultural production to alternative crops in an economically viable manner;

(c) support for appropriate training or sensitization programmes for appropriate personnel in accordance with Article 12;

(d) provision, as appropriate, of the necessary material, equipment and supplies, as well as logistical support, for tobacco control strategies, plans and programmes;

(e) identification of methods for tobacco control, including comprehensive treatment of nicotine addiction; and

(f) promotion, as appropriate, of research to increase the affordability of comprehensive treatment of nicotine addiction.

2. The Conference of the Parties shall promote and facilitate transfer of technical, scientific and legal expertise and technology with the financial support secured in accordance with Article 26.

PART VIII: INSTITUTIONAL ARRANGEMENTS AND FINANCIAL RESOURCES

Article 23

Conference of the Parties

1. A Conference of the Parties is hereby established. The first session of the Conference shall be convened by the World Health Organization not later than one year after the entry into force of this Convention. The Conference will determine the venue and timing of subsequent regular sessions at its first session.

2. Extraordinary sessions of the Conference of the Parties shall be held at such other times as may be deemed necessary by the Conference, or at the written request of any Party, provided that, within six months of the request being communicated to them by the Secretariat of the Convention, it is supported by at least one-third of the Parties.

3. The Conference of the Parties shall adopt by consensus its Rules of Procedure at its first session.

4. The Conference of the Parties shall by consensus adopt financial rules for itself as well as governing the funding of any subsidiary bodies it may establish as well as financial provisions governing the functioning of the Secretariat. At each ordinary session, it shall adopt a budget for the financial period until the next ordinary session.

5. The Conference of the Parties shall keep under regular review the implementation of the Convention and take the decisions necessary to promote its effective implementation and may adopt protocols, annexes and amendments to the Convention, in accordance with Articles 28, 29 and 33. Towards this end, it shall:

(a) promote and facilitate the exchange of information pursuant to Articles 20 and 21;

- (b) promote and guide the development and periodic refinement of comparable methodologies for research and the collection of data, in addition to those provided for in Article 20, relevant to the implementation of the Convention;
- (c) promote, as appropriate, the development, implementation and evaluation of strategies, plans, and programmes, as well as policies, legislation and other measures;
- (d) consider reports submitted by the Parties in accordance with Article 21 and adopt regular reports on the implementation of the Convention;
- (e) promote and facilitate the mobilization of financial resources for the implementation of the Convention in accordance with Article 26;
- (f) establish such subsidiary bodies as are necessary to achieve the objective of the Convention;
- (g) request, where appropriate, the services and cooperation of, and information provided by, competent and relevant organizations and bodies of the United Nations system and other international and regional intergovernmental organizations and nongovernmental organizations and bodies as a means of strengthening the implementation of the Convention; and
- (h) consider other action, as appropriate, for the achievement of the objective of the Convention in the light of experience gained in its implementation.

6. The Conference of the Parties shall establish the criteria for the participation of observers at its proceedings.

Article 24
Secretariat

1. The Conference of the Parties shall designate a permanent secretariat and make arrangements for its functioning. The Conference of the Parties shall endeavour to do so at its first session.
2. Until such time as a permanent secretariat is designated and established, secretariat functions under this Convention shall be provided by the World Health Organization.
3. Secretariat functions shall be:
 - (a) to make arrangements for sessions of the Conference of the Parties and any subsidiary bodies and to provide them with services as required;
 - (b) transmit reports received by it pursuant to the Convention;

- (c) to provide support to the Parties, particularly developing country Parties and Parties with economies in transition, on request, in the compilation and communication of information required in accordance with the provisions of the Convention;
- (d) to prepare reports on its activities under the Convention under the guidance of the Conference of the Parties and submit them to the Conference of the Parties;
- (e) to ensure, under the guidance of the Conference of the Parties, the necessary coordination with the competent international and regional intergovernmental organizations and other bodies;
- (f) to enter, under the guidance of the Conference of the Parties, into such administrative or contractual arrangements as may be required for the effective discharge of its functions; and
- (g) to perform other secretariat functions specified by the Convention and by any of its protocols and such other functions as may be determined by the Conference of the Parties.

Article 25

Relations between the Conference of the Parties and intergovernmental organizations

In order to provide technical and financial cooperation for achieving the objective of this Convention, the Conference of the Parties may request the cooperation of competent international and regional intergovernmental organizations including financial and development institutions.

Article 26

Financial resources

1. The Parties recognize the important role that financial resources play in achieving the objective of this Convention.
2. Each Party shall provide financial support in respect of its national activities intended to achieve the objective of the Convention, in accordance with its national plans, priorities and programmes.
3. Parties shall promote, as appropriate, the utilization of bilateral, regional, subregional and other multilateral channels to provide funding for the development and strengthening of multisectoral comprehensive tobacco control programmes of developing country Parties and Parties with economies in transition. Accordingly, economically viable alternatives to tobacco production, including crop diversification

should be addressed and supported in the context of nationally developed strategies of sustainable development.

4. Parties represented in relevant regional and international intergovernmental organizations, and financial and development institutions shall encourage these entities to provide financial assistance for developing country Parties and for Parties with economies in transition to assist them in meeting their obligations under the Convention, without limiting the rights of participation within these organizations.

5. The Parties agree that:

(a) to assist Parties in meeting their obligations under the Convention, all relevant potential and existing resources, financial, technical, or otherwise, both public and private that are available for tobacco control activities, should be mobilized and utilized for the benefit of all Parties, especially developing countries and countries with economies in transition;

(b) the Secretariat shall advise developing country Parties and Parties with economies in transition, upon request, on available sources of funding to facilitate the implementation of their obligations under the Convention;

(c) the Conference of the Parties in its first session shall review existing and potential sources and mechanisms of assistance based on a study conducted by the Secretariat and other relevant information, and consider their adequacy; and

(d) the results of this review shall be taken into account by the Conference of the Parties in determining the necessity to enhance existing mechanisms or to establish a voluntary global fund or other appropriate financial mechanisms to channel additional financial resources, as needed, to developing country Parties and Parties with economies in transition to assist them in meeting the objectives of the Convention.

PART IX: SETTLEMENT OF DISPUTES

Article 27

Settlement of disputes

1. In the event of a dispute between two or more Parties concerning the interpretation or application of this Convention, the Parties concerned shall seek through diplomatic channels a settlement of the dispute through negotiation or any other peaceful means of their own choice, including good offices, mediation, or conciliation. Failure to reach agreement by good offices, mediation or conciliation shall not absolve parties to the dispute from the responsibility of continuing to seek to resolve it.

2. When ratifying, accepting, approving, formally confirming or acceding to the Convention, or at any time thereafter, a State or regional economic integration organization may declare in writing to the Depositary that, for a dispute not resolved in accordance with paragraph 1 of this Article, it accepts, as compulsory, ad hoc arbitration in accordance with procedures to be adopted by consensus by the Conference of the Parties.

3. The provisions of this Article shall apply with respect to any protocol as between the parties to the protocol, unless otherwise provided therein.

PART X: DEVELOPMENT OF THE CONVENTION

Article 28

Amendments to this Convention

1. Any Party may propose amendments to this Convention. Such amendments will be considered by the Conference of the Parties.

2. Amendments to the Convention shall be adopted by the Conference of the Parties. The text of any proposed amendment to the Convention shall be communicated to the Parties by the Secretariat at least six months before the session at which it is proposed for adoption. The Secretariat shall also communicate proposed amendments to the signatories of the Convention and, for information, to the Depositary.

3. The Parties shall make every effort to reach agreement by consensus on any proposed amendment to the Convention. If all efforts at consensus have been exhausted, and no agreement reached, the amendment shall as a last resort be adopted by a three-quarters majority vote of the Parties present and voting at the session. For purposes of this Article, Parties present and voting means Parties present and casting an affirmative or negative vote. Any adopted amendment shall be communicated by the Secretariat to the Depositary, who shall circulate it to all Parties for acceptance.

4. Instruments of acceptance in respect of an amendment shall be deposited with the Depositary. An amendment adopted in accordance with paragraph 3 of this Article shall enter into force for those Parties having accepted it on the ninetieth day after the date of receipt by the Depositary of an instrument of acceptance by at least two-thirds of the Parties to the Convention.

5. The amendment shall enter into force for any other Party on the ninetieth day after the date on which that Party deposits with the Depositary its instrument of acceptance of the said amendment.

Article 29*Adoption and amendment of annexes to this Convention*

1. Annexes to this Convention and amendments thereto shall be proposed, adopted and shall enter into force in accordance with the procedure set forth in Article 28.
2. Annexes to the Convention shall form an integral part thereof and, unless otherwise expressly provided, a reference to the Convention constitutes at the same time a reference to any annexes thereto.
3. Annexes shall be restricted to lists, forms and any other descriptive material relating to procedural, scientific, technical or administrative matters.

PART XI: FINAL PROVISIONS**Article 30***Reservations*

No reservations may be made to this Convention.

Article 31*Withdrawal*

1. At any time after two years from the date on which this Convention has entered into force for a Party, that Party may withdraw from the Convention by giving written notification to the Depositary.
2. Any such withdrawal shall take effect upon expiry of one year from the date of receipt by the Depositary of the notification of withdrawal, or on such later date as may be specified in the notification of withdrawal.
3. Any Party that withdraws from the Convention shall be considered as also having withdrawn from any protocol to which it is a Party.

Article 32*Right to vote*

1. Each Party to this Convention shall have one vote, except as provided for in paragraph 2 of this Article.
2. Regional economic integration organizations, in matters within their competence, shall exercise their right to vote with a number of votes equal to the number of their Member States that are Parties to the Convention. Such an organization shall not exercise its right to vote if any of its Member States exercises its right, and vice versa.

Article 33
Protocols

1. Any Party may propose protocols. Such proposals will be considered by the Conference of the Parties.
2. The Conference of the Parties may adopt protocols to this Convention. In adopting these protocols every effort shall be made to reach consensus. If all efforts at consensus have been exhausted, and no agreement reached, the protocol shall as a last resort be adopted by a three-quarters majority vote of the Parties present and voting at the session. For the purposes of this Article, Parties present and voting means Parties present and casting an affirmative or negative vote.
3. The text of any proposed protocol shall be communicated to the Parties by the Secretariat at least six months before the session at which it is proposed for adoption.
4. Only Parties to the Convention may be parties to a protocol.
5. Any protocol to the Convention shall be binding only on the parties to the protocol in question. Only Parties to a protocol may take decisions on matters exclusively relating to the protocol in question.
6. The requirements for entry into force of any protocol shall be established by that instrument.

Article 34
Signature

This Convention shall be open for signature by all Members of the World Health Organization and by any States that are not Members of the World Health Organization but are members of the United Nations and by regional economic integration organizations at the World Health Organization Headquarters in Geneva from 16 June 2003 to 22 June 2003, and thereafter at United Nations Headquarters in New York, from 30 June 2003 to 29 June 2004.

Article 35
*Ratification, acceptance, approval, formal confirmation
or accession*

1. This Convention shall be subject to ratification, acceptance, approval or accession by States and to formal confirmation or accession by regional economic integration organizations. It shall be open for accession from the day after the date on which the Convention is closed for signature. Instruments of ratification, acceptance, approval, formal confirmation or accession shall be deposited with the Depository.

2. Any regional economic integration organization which becomes a Party to the Convention without any of its Member States being a Party shall be bound by all the obligations under the Convention. In the case of those organizations, one or more of whose Member States is a Party to the Convention, the organization and its Member States shall decide on their respective responsibilities for the performance of their obligations under the Convention. In such cases, the organization and the Member States shall not be entitled to exercise rights under the Convention concurrently.

3. Regional economic integration organizations shall, in their instruments relating to formal confirmation or in their instruments of accession, declare the extent of their competence with respect to the matters governed by the Convention. These organizations shall also inform the Depositary, who shall in turn inform the Parties, of any substantial modification in the extent of their competence.

Article 36
Entry into force

1. This Convention shall enter into force on the ninetieth day following the date of deposit of the fortieth instrument of ratification, acceptance, approval, formal confirmation or accession with the Depositary.

2. For each State that ratifies, accepts or approves the Convention or accedes thereto after the conditions set out in paragraph 1 of this Article for entry into force have been fulfilled, the Convention shall enter into force on the ninetieth day following the date of deposit of its instrument of ratification, acceptance, approval or accession.

3. For each regional economic integration organization depositing an instrument of formal confirmation or an instrument of accession after the conditions set out in paragraph 1 of this Article for entry into force have been fulfilled, the Convention shall enter into force on the ninetieth day following the date of its depositing of the instrument of formal confirmation or of accession.

4. For the purposes of this Article, any instrument deposited by a regional economic integration organization shall not be counted as additional to those deposited by States Members of the organization.

Article 37
Depositary

The Secretary-General of the United Nations shall be the Depositary of this Convention and amendments thereto and of protocols and annexes adopted in accordance with Articles 28, 29 and 33.

Article 38
Authentic texts

The original of this Convention, of which the Arabic, Chinese, English, French, Russian and Spanish texts are equally authentic, shall be deposited with the Secretary-General of the United Nations.

IN WITNESS WHEREOF the undersigned, being duly authorized to that effect, have signed this Convention.

DONE at GENEVA this twenty-first day of May two thousand and three.

Članak 3.

Provedba ovoga Zakona u djelokrugu je središnjih tijela državne uprave nadležnih za poslove zdravstva, financija, gospodarstva i poljoprivrede u čiji djelokrug ulazi ostvarivanje pojedinih prava i obveza predviđenih Okvirnom konvencijom Svjetske zdravstvene organizacije o nadzoru nad duhanom.

Članak 4.

Na dan stupanja na snagu ovoga Zakona, Konvencija iz članka 1. ovoga Zakona nije na snazi za Republiku Hrvatsku, te će se podaci o njezinom stupanju na snagu objaviti naknadno, sukladno odredbi članka 30. stavka 3. Zakona o sklapanju i izvršavanju međunarodnih ugovora.

Članak 5.

Ovaj Zakon stupa na snagu osmoga dana od dana objave u «Narodnim novinama».

OBRAZLOŽENJE

Uz članak 1.

Odredbom ovoga članka propisano je da se potvrđuje Okvirna konvencija Svjetske zdravstvene organizacije o nadzoru nad duhanom čime se stvaraju uvjeti za iskazivanje formalnog pristanka Republike Hrvatske da bude vezana Okvirnom konvencijom.

Uz članak 2.

Ovaj članak sadrži tekst Okvirne konvencije Svjetske zdravstvene organizacije o nadzoru na duhanom u izvorniku na engleskom jeziku i u prijevodu na hrvatski jezik.

Uz članak 3.

Određuju se tijela nadležna za provedbu Zakona.

Uz članak 4.

Navedenim člankom utvrđuje se da Okvirna konvencija Svjetske zdravstvene organizacije o nadzoru nad duhanom na dan stupanja na snagu ovoga Zakona, nije na snazi za Republiku Hrvatsku, te će se podaci o njezinom stupanju na snagu objaviti naknadno sukladno odredbi članka 30. stavka 3. Zakona o sklapanju i izvršavanju međunarodnih ugovora.

Uz članak 5.

Odredbom ovog članka regulirano je stupanje na snagu ovog Zakona.

PRILOG – kopija izvornog teksta Okvirne konvencije Svjetske zdravstvene organizacije o nadzoru nad duhanom, na engleskom jeziku

**WHO FRAMEWORK CONVENTION ON TOBACCO
CONTROL**



**UNITED NATIONS
2003**

WHO Framework Convention on Tobacco Control

Preamble

The Parties to this Convention,

Determined to give priority to their right to protect public health,

Recognizing that the spread of the tobacco epidemic is a global problem with serious consequences for public health that calls for the widest possible international cooperation and the participation of all countries in an effective, appropriate and comprehensive international response,

Reflecting the concern of the international community about the devastating worldwide health, social, economic and environmental consequences of tobacco consumption and exposure to tobacco smoke,

Seriously concerned about the increase in the worldwide consumption and production of cigarettes and other tobacco products, particularly in developing countries, as well as about the burden this places on families, on the poor, and on national health systems,

Recognizing that scientific evidence has unequivocally established that tobacco consumption and exposure to tobacco smoke cause death, disease and disability, and that there is a time lag between the exposure to smoking and the other uses of tobacco products and the onset of tobacco-related diseases,

Recognizing also that cigarettes and some other products containing tobacco are highly engineered so as to create and maintain dependence, and that many of the compounds they contain and the smoke they produce are pharmacologically active, toxic, mutagenic and carcinogenic, and that tobacco dependence is separately classified as a disorder in major international classifications of diseases,

Acknowledging that there is clear scientific evidence that prenatal exposure to tobacco smoke causes adverse health and developmental conditions for children,

Deeply concerned about the escalation in smoking and other forms of tobacco consumption by children and adolescents worldwide, particularly smoking at increasingly early ages,

Alarmed by the increase in smoking and other forms of tobacco consumption by women and young girls worldwide and keeping in mind the need for full participation of women at all levels of policy-making and implementation and the need for gender-specific tobacco control strategies,

Deeply concerned about the high levels of smoking and other forms of tobacco consumption by indigenous peoples,

Seriously concerned about the impact of all forms of advertising, promotion and sponsorship aimed at encouraging the use of tobacco products,

Recognizing that cooperative action is necessary to eliminate all forms of illicit trade in cigarettes and other tobacco products, including smuggling, illicit manufacturing and counterfeiting,

Acknowledging that tobacco control at all levels and particularly in developing countries and in countries with economies in transition requires sufficient financial and technical resources commensurate with the current and projected need for tobacco control activities,

Recognizing the need to develop appropriate mechanisms to address the long-term social and economic implications of successful tobacco demand reduction strategies,

Mindful of the social and economic difficulties that tobacco control programmes may engender in the medium and long term in some developing countries and countries with economies in transition, and recognizing their need for technical and financial assistance in the context of nationally developed strategies for sustainable development,

Conscious of the valuable work being conducted by many States on tobacco control and commending the leadership of the World Health Organization as well as the efforts of other organizations and bodies of the United Nations system and other international and regional intergovernmental organizations in developing measures on tobacco control,

Emphasizing the special contribution of nongovernmental organizations and other members of civil society not affiliated with the tobacco industry, including health professional bodies, women's, youth, environmental and consumer groups, and academic and health care institutions, to tobacco control efforts nationally and internationally and the vital importance of their participation in national and international tobacco control efforts,

Recognizing the need to be alert to any efforts by the tobacco industry to undermine or subvert tobacco control efforts and the need to be informed of activities of the tobacco industry that have a negative impact on tobacco control efforts,

Recalling Article 12 of the International Covenant on Economic, Social and Cultural Rights, adopted by the United Nations General Assembly on 16 December 1966, which states that it is the right of everyone to the enjoyment of the highest attainable standard of physical and mental health,

Recalling also the preamble to the Constitution of the World Health Organization, which states that the enjoyment of the highest attainable standard of health is one of the fundamental rights of every human being without distinction of race, religion, political belief, economic or social condition,

Determined to promote measures of tobacco control based on current and relevant scientific, technical and economic considerations,

Recalling that the Convention on the Elimination of All Forms of Discrimination against Women, adopted by the United Nations General Assembly on 18 December 1979, provides that States Parties to that Convention shall take appropriate measures to eliminate discrimination against women in the field of health care,

Recalling further that the Convention on the Rights of the Child, adopted by the United Nations General Assembly on 20 November 1989, provides that States Parties to that Convention recognize the right of the child to the enjoyment of the highest attainable standard of health,

Have agreed, as follows:

PART I: INTRODUCTION

Article 1 *Use of terms*

For the purposes of this Convention:

- (a) "illicit trade" means any practice or conduct prohibited by law and which relates to production, shipment, receipt, possession, distribution, sale or purchase including any practice or conduct intended to facilitate such activity;

(b) “regional economic integration organization” means an organization that is composed of several sovereign states, and to which its Member States have transferred competence over a range of matters, including the authority to make decisions binding on its Member States in respect of those matters;¹

(c) “tobacco advertising and promotion” means any form of commercial communication, recommendation or action with the aim, effect or likely effect of promoting a tobacco product or tobacco use either directly or indirectly;

(d) “tobacco control” means a range of supply, demand and harm reduction strategies that aim to improve the health of a population by eliminating or reducing their consumption of tobacco products and exposure to tobacco smoke;

(e) “tobacco industry” means tobacco manufacturers, wholesale distributors and importers of tobacco products;

(f) “tobacco products” means products entirely or partly made of the leaf tobacco as raw material which are manufactured to be used for smoking, sucking, chewing or snuffing;

(g) “tobacco sponsorship” means any form of contribution to any event, activity or individual with the aim, effect or likely effect of promoting a tobacco product or tobacco use either directly or indirectly;

Article 2

Relationship between this Convention and other agreements and legal instruments

1. In order to better protect human health, Parties are encouraged to implement measures beyond those required by this Convention and its protocols, and nothing in these instruments shall prevent a Party from imposing stricter requirements that are consistent with their provisions and are in accordance with international law.

2. The provisions of the Convention and its protocols shall in no way affect the right of Parties to enter into bilateral or multilateral agreements, including regional or subregional agreements, on issues relevant or additional to the Convention and its protocols, provided that such agreements are compatible

¹ Where appropriate, national will refer equally to regional economic integration organizations.

with their obligations under the Convention and its protocols. The Parties concerned shall communicate such agreements to the Conference of the Parties through the Secretariat.

PART II: OBJECTIVE, GUIDING PRINCIPLES AND GENERAL OBLIGATIONS

Article 3 Objective

The objective of this Convention and its protocols is to protect present and future generations from the devastating health, social, environmental and economic consequences of tobacco consumption and exposure to tobacco smoke by providing a framework for tobacco control measures to be implemented by the Parties at the national, regional and international levels in order to reduce continually and substantially the prevalence of tobacco use and exposure to tobacco smoke.

Article 4 Guiding principles

To achieve the objective of this Convention and its protocols and to implement its provisions, the Parties shall be guided, inter alia, by the principles set out below:

1. Every person should be informed of the health consequences, addictive nature and mortal threat posed by tobacco consumption and exposure to tobacco smoke and effective legislative, executive, administrative or other measures should be contemplated at the appropriate governmental level to protect all persons from exposure to tobacco smoke.
2. Strong political commitment is necessary to develop and support, at the national, regional and international levels, comprehensive multisectoral measures and coordinated responses, taking into consideration:
 - (a) the need to take measures to protect all persons from exposure to tobacco smoke;
 - (b) the need to take measures to prevent the initiation, to promote and support cessation, and to decrease the consumption of tobacco products in any form;

- (c) the need to take measures to promote the participation of indigenous individuals and communities in the development, implementation and evaluation of tobacco control programmes that are socially and culturally appropriate to their needs and perspectives; and
 - (d) the need to take measures to address gender-specific risks when developing tobacco control strategies.
3. International cooperation, particularly transfer of technology, knowledge and financial assistance and provision of related expertise, to establish and implement effective tobacco control programmes, taking into consideration local culture, as well as social, economic, political and legal factors, is an important part of the Convention.
 4. Comprehensive multisectoral measures and responses to reduce consumption of all tobacco products at the national, regional and international levels are essential so as to prevent, in accordance with public health principles, the incidence of diseases, premature disability and mortality due to tobacco consumption and exposure to tobacco smoke.
 5. Issues relating to liability, as determined by each Party within its jurisdiction, are an important part of comprehensive tobacco control.
 6. The importance of technical and financial assistance to aid the economic transition of tobacco growers and workers whose livelihoods are seriously affected as a consequence of tobacco control programmes in developing country Parties, as well as Parties with economies in transition, should be recognized and addressed in the context of nationally developed strategies for sustainable development.
 7. The participation of civil society is essential in achieving the objective of the Convention and its protocols.

Article 5
General obligations

1. Each Party shall develop, implement, periodically update and review comprehensive multisectoral national tobacco control strategies, plans and programmes in accordance with this Convention and the protocols to which it is a Party.
2. Towards this end, each Party shall, in accordance with its capabilities:

(a) establish or reinforce and finance a national coordinating mechanism or focal points for tobacco control; and

(b) adopt and implement effective legislative, executive, administrative and/or other measures and cooperate, as appropriate, with other Parties in developing appropriate policies for preventing and reducing tobacco consumption, nicotine addiction and exposure to tobacco smoke.

3. In setting and implementing their public health policies with respect to tobacco control, Parties shall act to protect these policies from commercial and other vested interests of the tobacco industry in accordance with national law.

4. The Parties shall cooperate in the formulation of proposed measures, procedures and guidelines for the implementation of the Convention and the protocols to which they are Parties.

5. The Parties shall cooperate, as appropriate, with competent international and regional intergovernmental organizations and other bodies to achieve the objectives of the Convention and the protocols to which they are Parties.

6. The Parties shall, within means and resources at their disposal, cooperate to raise financial resources for effective implementation of the Convention through bilateral and multilateral funding mechanisms.

PART III: MEASURES RELATING TO THE REDUCTION OF DEMAND FOR TOBACCO

Article 6

Price and tax measures to reduce the demand for tobacco

1. The Parties recognize that price and tax measures are an effective and important means of reducing tobacco consumption by various segments of the population, in particular young persons.

2. Without prejudice to the sovereign right of the Parties to determine and establish their taxation policies, each Party should take account of its national health objectives concerning tobacco control and adopt or maintain, as appropriate, measures which may include:

(a) implementing tax policies and, where appropriate, price policies, on tobacco products so as to contribute to the health objectives aimed at reducing tobacco consumption; and

(b) prohibiting or restricting, as appropriate, sales to and/or importations by international travellers of tax- and duty-free tobacco products.

3. The Parties shall provide rates of taxation for tobacco products and trends in tobacco consumption in their periodic reports to the Conference of the Parties, in accordance with Article 21.

Article 7

Non-price measures to reduce the demand for tobacco

The Parties recognize that comprehensive non-price measures are an effective and important means of reducing tobacco consumption. Each Party shall adopt and implement effective legislative, executive, administrative or other measures necessary to implement its obligations pursuant to Articles 8 to 13 and shall cooperate, as appropriate, with each other directly or through competent international bodies with a view to their implementation. The Conference of the Parties shall propose appropriate guidelines for the implementation of the provisions of these Articles.

Article 8

Protection from exposure to tobacco smoke

1. Parties recognize that scientific evidence has unequivocally established that exposure to tobacco smoke causes death, disease and disability.

2. Each Party shall adopt and implement in areas of existing national jurisdiction as determined by national law and actively promote at other jurisdictional levels the adoption and implementation of effective legislative, executive, administrative and/or other measures, providing for protection from exposure to tobacco smoke in indoor workplaces, public transport, indoor public places and, as appropriate, other public places.

Article 9

Regulation of the contents of tobacco products

The Conference of the Parties, in consultation with competent international bodies, shall propose guidelines for testing and measuring the contents and emissions of tobacco products, and for the regulation of these

contents and emissions. Each Party shall, where approved by competent national authorities, adopt and implement effective legislative, executive and administrative or other measures for such testing and measuring, and for such regulation.

Article 10

Regulation of tobacco product disclosures

Each Party shall, in accordance with its national law, adopt and implement effective legislative, executive, administrative or other measures requiring manufacturers and importers of tobacco products to disclose to governmental authorities information about the contents and emissions of tobacco products. Each Party shall further adopt and implement effective measures for public disclosure of information about the toxic constituents of the tobacco products and the emissions that they may produce.

Article 11

Packaging and labelling of tobacco products

1. Each Party shall, within a period of three years after entry into force of this Convention for that Party, adopt and implement, in accordance with its national law, effective measures to ensure that:

(a) tobacco product packaging and labelling do not promote a tobacco product by any means that are false, misleading, deceptive or likely to create an erroneous impression about its characteristics, health effects, hazards or emissions, including any term, descriptor, trademark, figurative or any other sign that directly or indirectly creates the false impression that a particular tobacco product is less harmful than other tobacco products. These may include terms such as "low tar", "light", "ultra-light", or "mild"; and

(b) each unit packet and package of tobacco products and any outside packaging and labelling of such products also carry health warnings describing the harmful effects of tobacco use, and may include other appropriate messages. These warnings and messages:

- (i) shall be approved by the competent national authority,
- (ii) shall be rotating,
- (iii) shall be large, clear, visible and legible,

(iv) should be 50% or more of the principal display areas but shall be no less than 30% of the principal display areas,

(v) may be in the form of or include pictures or pictograms.

2. Each unit packet and package of tobacco products and any outside packaging and labelling of such products shall, in addition to the warnings specified in paragraph 1(b) of this Article, contain information on relevant constituents and emissions of tobacco products as defined by national authorities.

3. Each Party shall require that the warnings and other textual information specified in paragraphs 1(b) and paragraph 2 of this Article will appear on each unit packet and package of tobacco products and any outside packaging and labelling of such products in its principal language or languages.

4. For the purposes of this Article, the term "outside packaging and labelling" in relation to tobacco products applies to any packaging and labelling used in the retail sale of the product.

Article 12

Education, communication, training and public awareness

Each Party shall promote and strengthen public awareness of tobacco control issues, using all available communication tools, as appropriate. Towards this end, each Party shall adopt and implement effective legislative, executive, administrative or other measures to promote:

(a) broad access to effective and comprehensive educational and public awareness programmes on the health risks including the addictive characteristics of tobacco consumption and exposure to tobacco smoke;

(b) public awareness about the health risks of tobacco consumption and exposure to tobacco smoke, and about the benefits of the cessation of tobacco use and tobacco-free lifestyles as specified in Article 14.2;

(c) public access, in accordance with national law, to a wide range of information on the tobacco industry as relevant to the objective of this Convention;

(d) effective and appropriate training or sensitization and awareness programmes on tobacco control addressed to persons such as health

workers, community workers, social workers, media professionals, educators, decision-makers, administrators and other concerned persons;

(e) awareness and participation of public and private agencies and nongovernmental organizations not affiliated with the tobacco industry in developing and implementing intersectoral programmes and strategies for tobacco control; and

(f) public awareness of and access to information regarding the adverse health, economic, and environmental consequences of tobacco production and consumption.

Article 13

Tobacco advertising, promotion and sponsorship

1. Parties recognize that a comprehensive ban on advertising, promotion and sponsorship would reduce the consumption of tobacco products.
2. Each Party shall, in accordance with its constitution or constitutional principles, undertake a comprehensive ban of all tobacco advertising, promotion and sponsorship. This shall include, subject to the legal environment and technical means available to that Party, a comprehensive ban on cross-border advertising, promotion and sponsorship originating from its territory. In this respect, within the period of five years after entry into force of this Convention for that Party, each Party shall undertake appropriate legislative, executive, administrative and/or other measures and report accordingly in conformity with Article 21.
3. A Party that is not in a position to undertake a comprehensive ban due to its constitution or constitutional principles shall apply restrictions on all tobacco advertising, promotion and sponsorship. This shall include, subject to the legal environment and technical means available to that Party, restrictions or a comprehensive ban on advertising, promotion and sponsorship originating from its territory with cross-border effects. In this respect, each Party shall undertake appropriate legislative, executive, administrative and/or other measures and report accordingly in conformity with Article 21.
4. As a minimum, and in accordance with its constitution or constitutional principles, each Party shall:
 - (a) prohibit all forms of tobacco advertising, promotion and sponsorship that promote a tobacco product by any means that are false,

misleading or deceptive or likely to create an erroneous impression about its characteristics, health effects, hazards or emissions;

(b) require that health or other appropriate warnings or messages accompany all tobacco advertising and, as appropriate, promotion and sponsorship;

(c) restrict the use of direct or indirect incentives that encourage the purchase of tobacco products by the public;

(d) require, if it does not have a comprehensive ban, the disclosure to relevant governmental authorities of expenditures by the tobacco industry on advertising, promotion and sponsorship not yet prohibited. Those authorities may decide to make those figures available, subject to national law, to the public and to the Conference of the Parties, pursuant to Article 21;

(e) undertake a comprehensive ban or, in the case of a Party that is not in a position to undertake a comprehensive ban due to its constitution or constitutional principles, restrict tobacco advertising, promotion and sponsorship on radio, television, print media and, as appropriate, other media, such as the internet, within a period of five years; and

(f) prohibit, or in the case of a Party that is not in a position to prohibit due to its constitution or constitutional principles restrict, tobacco sponsorship of international events, activities and/or participants therein.

5. Parties are encouraged to implement measures beyond the obligations set out in paragraph 4.

6. Parties shall cooperate in the development of technologies and other means necessary to facilitate the elimination of cross-border advertising.

7. Parties which have a ban on certain forms of tobacco advertising, promotion and sponsorship have the sovereign right to ban those forms of cross-border tobacco advertising, promotion and sponsorship entering their territory and to impose equal penalties as those applicable to domestic advertising, promotion and sponsorship originating from their territory in accordance with their national law. This paragraph does not endorse or approve of any particular penalty.

8. Parties shall consider the elaboration of a protocol setting out appropriate measures that require international collaboration for a comprehensive ban on cross-border advertising, promotion and sponsorship.

Article 14

*Demand reduction measures concerning tobacco dependence
and cessation*

1. Each Party shall develop and disseminate appropriate, comprehensive and integrated guidelines based on scientific evidence and best practices, taking into account national circumstances and priorities, and shall take effective measures to promote cessation of tobacco use and adequate treatment for tobacco dependence.
2. Towards this end, each Party shall endeavour to:
 - (a) design and implement effective programmes aimed at promoting the cessation of tobacco use, in such locations as educational institutions, health care facilities, workplaces and sporting environments;
 - (b) include diagnosis and treatment of tobacco dependence and counselling services on cessation of tobacco use in national health and education programmes, plans and strategies, with the participation of health workers, community workers and social workers as appropriate;
 - (c) establish in health care facilities and rehabilitation centres programmes for diagnosing, counselling, preventing and treating tobacco dependence; and
 - (d) collaborate with other Parties to facilitate accessibility and affordability for treatment of tobacco dependence including pharmaceutical products pursuant to Article 22. Such products and their constituents may include medicines, products used to administer medicines and diagnostics when appropriate.

**PART IV: MEASURES RELATING TO THE REDUCTION
OF THE SUPPLY OF TOBACCO**

Article 15

Illicit trade in tobacco products

1. The Parties recognize that the elimination of all forms of illicit trade in tobacco products, including smuggling, illicit manufacturing and counterfeiting, and the development and implementation of related national law, in addition to subregional, regional and global agreements, are essential components of tobacco control.
2. Each Party shall adopt and implement effective legislative, executive, administrative or other measures to ensure that all unit packets and packages of tobacco products and any outside packaging of such products are marked to assist Parties in determining the origin of tobacco products, and in accordance with national law and relevant bilateral or multilateral agreements, assist Parties in determining the point of diversion and monitor, document and control the movement of tobacco products and their legal status. In addition, each Party shall:
 - (a) require that unit packets and packages of tobacco products for retail and wholesale use that are sold on its domestic market carry the statement: "Sales only allowed in (insert name of the country, subnational, regional or federal unit)" or carry any other effective marking indicating the final destination or which would assist authorities in determining whether the product is legally for sale on the domestic market; and
 - (b) consider, as appropriate, developing a practical tracking and tracing regime that would further secure the distribution system and assist in the investigation of illicit trade.
3. Each Party shall require that the packaging information or marking specified in paragraph 2 of this Article shall be presented in legible form and/or appear in its principal language or languages.
4. With a view to eliminating illicit trade in tobacco products, each Party shall:
 - (a) monitor and collect data on cross-border trade in tobacco products, including illicit trade, and exchange information among customs, tax and other authorities, as appropriate, and in accordance

with national law and relevant applicable bilateral or multilateral agreements;

(b) enact or strengthen legislation, with appropriate penalties and remedies, against illicit trade in tobacco products, including counterfeit and contraband cigarettes;

(c) take appropriate steps to ensure that all confiscated manufacturing equipment, counterfeit and contraband cigarettes and other tobacco products are destroyed, using environmentally-friendly methods where feasible, or disposed of in accordance with national law;

(d) adopt and implement measures to monitor, document and control the storage and distribution of tobacco products held or moving under suspension of taxes or duties within its jurisdiction; and

(e) adopt measures as appropriate to enable the confiscation of proceeds derived from the illicit trade in tobacco products.

5. Information collected pursuant to subparagraphs 4(a) and 4(d) of this Article shall, as appropriate, be provided in aggregate form by the Parties in their periodic reports to the Conference of the Parties, in accordance with Article 21.

6. The Parties shall, as appropriate and in accordance with national law, promote cooperation between national agencies, as well as relevant regional and international intergovernmental organizations as it relates to investigations, prosecutions and proceedings, with a view to eliminating illicit trade in tobacco products. Special emphasis shall be placed on cooperation at regional and subregional levels to combat illicit trade of tobacco products.

7. Each Party shall endeavour to adopt and implement further measures including licensing, where appropriate, to control or regulate the production and distribution of tobacco products in order to prevent illicit trade.

Article 16

Sales to and by minors

1. Each Party shall adopt and implement effective legislative, executive, administrative or other measures at the appropriate government level to prohibit the sales of tobacco products to persons under the age set by domestic law, national law or eighteen. These measures may include:

- (a) requiring that all sellers of tobacco products place a clear and prominent indicator inside their point of sale about the prohibition of tobacco sales to minors and, in case of doubt, request that each tobacco purchaser provide appropriate evidence of having reached full legal age;
 - (b) banning the sale of tobacco products in any manner by which they are directly accessible, such as store shelves;
 - (c) prohibiting the manufacture and sale of sweets, snacks, toys or any other objects in the form of tobacco products which appeal to minors; and
 - (d) ensuring that tobacco vending machines under its jurisdiction are not accessible to minors and do not promote the sale of tobacco products to minors.
2. Each Party shall prohibit or promote the prohibition of the distribution of free tobacco products to the public and especially minors.
 3. Each Party shall endeavour to prohibit the sale of cigarettes individually or in small packets which increase the affordability of such products to minors.
 4. The Parties recognize that in order to increase their effectiveness, measures to prevent tobacco product sales to minors should, where appropriate, be implemented in conjunction with other provisions contained in this Convention.
 5. When signing, ratifying, accepting, approving or acceding to the Convention or at any time thereafter, a Party may, by means of a binding written declaration, indicate its commitment to prohibit the introduction of tobacco vending machines within its jurisdiction or, as appropriate, to a total ban on tobacco vending machines. The declaration made pursuant to this Article shall be circulated by the Depositary to all Parties to the Convention.
 6. Each Party shall adopt and implement effective legislative, executive, administrative or other measures, including penalties against sellers and distributors, in order to ensure compliance with the obligations contained in paragraphs 1-5 of this Article.
 7. Each Party should, as appropriate, adopt and implement effective legislative, executive, administrative or other measures to prohibit the sales of tobacco products by persons under the age set by domestic law, national law or eighteen.

Article 17

Provision of support for economically viable alternative activities

Parties shall, in cooperation with each other and with competent international and regional intergovernmental organizations, promote, as appropriate, economically viable alternatives for tobacco workers, growers and, as the case may be, individual sellers.

PART V: PROTECTION OF THE ENVIRONMENT

Article 18

Protection of the environment and the health of persons

In carrying out their obligations under this Convention, the Parties agree to have due regard to the protection of the environment and the health of persons in relation to the environment in respect of tobacco cultivation and manufacture within their respective territories.

PART VI: QUESTIONS RELATED TO LIABILITY

Article 19

Liability

1. For the purpose of tobacco control, the Parties shall consider taking legislative action or promoting their existing laws, where necessary, to deal with criminal and civil liability, including compensation where appropriate.
2. Parties shall cooperate with each other in exchanging information through the Conference of the Parties in accordance with Article 21 including:
 - (a) information on the health effects of the consumption of tobacco products and exposure to tobacco smoke in accordance with Article 20.3(a); and
 - (b) information on legislation and regulations in force as well as pertinent jurisprudence.
3. The Parties shall, as appropriate and mutually agreed, within the limits of national legislation, policies, legal practices and applicable existing treaty arrangements, afford one another assistance in legal proceedings relating to civil and criminal liability consistent with this Convention.

4. The Convention shall in no way affect or limit any rights of access of the Parties to each other's courts where such rights exist.

5. The Conference of the Parties may consider, if possible, at an early stage, taking account of the work being done in relevant international fora, issues related to liability including appropriate international approaches to these issues and appropriate means to support, upon request, the Parties in their legislative and other activities in accordance with this Article.

PART VII: SCIENTIFIC AND TECHNICAL COOPERATION AND COMMUNICATION OF INFORMATION

Article 20

Research, surveillance and exchange of information

1. The Parties undertake to develop and promote national research and to coordinate research programmes at the regional and international levels in the field of tobacco control. Towards this end, each Party shall:

(a) initiate and cooperate in, directly or through competent international and regional intergovernmental organizations and other bodies, the conduct of research and scientific assessments, and in so doing promote and encourage research that addresses the determinants and consequences of tobacco consumption and exposure to tobacco smoke as well as research for identification of alternative crops; and

(b) promote and strengthen, with the support of competent international and regional intergovernmental organizations and other bodies, training and support for all those engaged in tobacco control activities, including research, implementation and evaluation.

2. The Parties shall establish, as appropriate, programmes for national, regional and global surveillance of the magnitude, patterns, determinants and consequences of tobacco consumption and exposure to tobacco smoke. Towards this end, the Parties should integrate tobacco surveillance programmes into national, regional and global health surveillance programmes so that data are comparable and can be analysed at the regional and international levels, as appropriate.

3. Parties recognize the importance of financial and technical assistance from international and regional intergovernmental organizations and other bodies. Each Party shall endeavour to:

(a) establish progressively a national system for the epidemiological surveillance of tobacco consumption and related social, economic and health indicators;

(b) cooperate with competent international and regional intergovernmental organizations and other bodies, including governmental and nongovernmental agencies, in regional and global tobacco surveillance and exchange of information on the indicators specified in paragraph 3(a) of this Article; and

(c) cooperate with the World Health Organization in the development of general guidelines or procedures for defining the collection, analysis and dissemination of tobacco-related surveillance data.

4. The Parties shall, subject to national law, promote and facilitate the exchange of publicly available scientific, technical, socioeconomic, commercial and legal information, as well as information regarding practices of the tobacco industry and the cultivation of tobacco, which is relevant to this Convention, and in so doing shall take into account and address the special needs of developing country Parties and Parties with economies in transition. Each Party shall endeavour to:

(a) progressively establish and maintain an updated database of laws and regulations on tobacco control and, as appropriate, information about their enforcement, as well as pertinent jurisprudence, and cooperate in the development of programmes for regional and global tobacco control;

(b) progressively establish and maintain updated data from national surveillance programmes in accordance with paragraph 3(a) of this Article; and

(c) cooperate with competent international organizations to progressively establish and maintain a global system to regularly collect and disseminate information on tobacco production, manufacture and the activities of the tobacco industry which have an impact on the Convention or national tobacco control activities.

5. Parties should cooperate in regional and international intergovernmental organizations and financial and development institutions of which they are members, to promote and encourage provision of technical and financial resources to the Secretariat to assist developing country Parties and Parties

with economies in transition to meet their commitments on research, surveillance and exchange of information.

Article 21
Reporting and exchange of information

1. Each Party shall submit to the Conference of the Parties, through the Secretariat, periodic reports on its implementation of this Convention, which should include the following:

- (a) information on legislative, executive, administrative or other measures taken to implement the Convention;
- (b) information, as appropriate, on any constraints or barriers encountered in its implementation of the Convention, and on the measures taken to overcome these barriers;
- (c) information, as appropriate, on financial and technical assistance provided or received for tobacco control activities;
- (d) information on surveillance and research as specified in Article 20; and
- (e) information specified in Articles 6.3, 13.2, 13.3, 13.4(d), 15.5 and 19.2.

2. The frequency and format of such reports by all Parties shall be determined by the Conference of the Parties. Each Party shall make its initial report within two years of the entry into force of the Convention for that Party.

3. The Conference of the Parties, pursuant to Articles 22 and 26, shall consider arrangements to assist developing country Parties and Parties with economies in transition, at their request, in meeting their obligations under this Article.

4. The reporting and exchange of information under the Convention shall be subject to national law regarding confidentiality and privacy. The Parties shall protect, as mutually agreed, any confidential information that is exchanged.

Article 22

*Cooperation in the scientific, technical, and legal fields
and provision of related expertise*

1. The Parties shall cooperate directly or through competent international bodies to strengthen their capacity to fulfill the obligations arising from this Convention, taking into account the needs of developing country Parties and Parties with economies in transition. Such cooperation shall promote the transfer of technical, scientific and legal expertise and technology, as mutually agreed, to establish and strengthen national tobacco control strategies, plans and programmes aiming at, inter alia:

(a) facilitation of the development, transfer and acquisition of technology, knowledge, skills, capacity and expertise related to tobacco control;

(b) provision of technical, scientific, legal and other expertise to establish and strengthen national tobacco control strategies, plans and programmes, aiming at implementation of the Convention through, inter alia:

(i) assisting, upon request, in the development of a strong legislative foundation as well as technical programmes, including those on prevention of initiation, promotion of cessation and protection from exposure to tobacco smoke;

(ii) assisting, as appropriate, tobacco workers in the development of appropriate economically and legally viable alternative livelihoods in an economically viable manner; and

(iii) assisting, as appropriate, tobacco growers in shifting agricultural production to alternative crops in an economically viable manner;

(c) support for appropriate training or sensitization programmes for appropriate personnel in accordance with Article 12;

(d) provision, as appropriate, of the necessary material, equipment and supplies, as well as logistical support, for tobacco control strategies, plans and programmes;

(e) identification of methods for tobacco control, including comprehensive treatment of nicotine addiction; and

(f) promotion, as appropriate, of research to increase the affordability of comprehensive treatment of nicotine addiction.

2. The Conference of the Parties shall promote and facilitate transfer of technical, scientific and legal expertise and technology with the financial support secured in accordance with Article 26.

PART VIII: INSTITUTIONAL ARRANGEMENTS AND FINANCIAL RESOURCES

Article 23

Conference of the Parties

1. A Conference of the Parties is hereby established. The first session of the Conference shall be convened by the World Health Organization not later than one year after the entry into force of this Convention. The Conference will determine the venue and timing of subsequent regular sessions at its first session.

2. Extraordinary sessions of the Conference of the Parties shall be held at such other times as may be deemed necessary by the Conference, or at the written request of any Party, provided that, within six months of the request being communicated to them by the Secretariat of the Convention, it is supported by at least one-third of the Parties.

3. The Conference of the Parties shall adopt by consensus its Rules of Procedure at its first session.

4. The Conference of the Parties shall by consensus adopt financial rules for itself as well as governing the funding of any subsidiary bodies it may establish as well as financial provisions governing the functioning of the Secretariat. At each ordinary session, it shall adopt a budget for the financial period until the next ordinary session.

5. The Conference of the Parties shall keep under regular review the implementation of the Convention and take the decisions necessary to promote its effective implementation and may adopt protocols, annexes and amendments to the Convention, in accordance with Articles 28, 29 and 33. Towards this end, it shall:

(a) promote and facilitate the exchange of information pursuant to Articles 20 and 21;

(b) promote and guide the development and periodic refinement of comparable methodologies for research and the collection of data, in addition to those provided for in Article 20, relevant to the implementation of the Convention;

(c) promote, as appropriate, the development, implementation and evaluation of strategies, plans, and programmes, as well as policies, legislation and other measures;

(d) consider reports submitted by the Parties in accordance with Article 21 and adopt regular reports on the implementation of the Convention;

(e) promote and facilitate the mobilization of financial resources for the implementation of the Convention in accordance with Article 26;

(f) establish such subsidiary bodies as are necessary to achieve the objective of the Convention;

(g) request, where appropriate, the services and cooperation of, and information provided by, competent and relevant organizations and bodies of the United Nations system and other international and regional intergovernmental organizations and nongovernmental organizations and bodies as a means of strengthening the implementation of the Convention; and

(h) consider other action, as appropriate, for the achievement of the objective of the Convention in the light of experience gained in its implementation.

6. The Conference of the Parties shall establish the criteria for the participation of observers at its proceedings.

Article 24 *Secretariat*

1. The Conference of the Parties shall designate a permanent secretariat and make arrangements for its functioning. The Conference of the Parties shall endeavour to do so at its first session.

2. Until such time as a permanent secretariat is designated and established, secretariat functions under this Convention shall be provided by the World Health Organization.

3. Secretariat functions shall be:
- (a) to make arrangements for sessions of the Conference of the Parties and any subsidiary bodies and to provide them with services as required;
 - (b) to transmit reports received by it pursuant to the Convention;
 - (c) to provide support to the Parties, particularly developing country Parties and Parties with economies in transition, on request, in the compilation and communication of information required in accordance with the provisions of the Convention;
 - (d) to prepare reports on its activities under the Convention under the guidance of the Conference of the Parties and submit them to the Conference of the Parties;
 - (e) to ensure, under the guidance of the Conference of the Parties, the necessary coordination with the competent international and regional intergovernmental organizations and other bodies;
 - (f) to enter, under the guidance of the Conference of the Parties, into such administrative or contractual arrangements as may be required for the effective discharge of its functions; and
 - (g) to perform other secretariat functions specified by the Convention and by any of its protocols and such other functions as may be determined by the Conference of the Parties.

Article 25
Relations between the Conference of the Parties
and intergovernmental organizations

In order to provide technical and financial cooperation for achieving the objective of this Convention, the Conference of the Parties may request the cooperation of competent international and regional intergovernmental organizations including financial and development institutions.

Article 26
Financial resources

1. The Parties recognize the important role that financial resources play in achieving the objective of this Convention.

2. Each Party shall provide financial support in respect of its national activities intended to achieve the objective of the Convention, in accordance with its national plans, priorities and programmes.

3. Parties shall promote, as appropriate, the utilization of bilateral, regional, subregional and other multilateral channels to provide funding for the development and strengthening of multisectoral comprehensive tobacco control programmes of developing country Parties and Parties with economies in transition. Accordingly, economically viable alternatives to tobacco production, including crop diversification should be addressed and supported in the context of nationally developed strategies of sustainable development.

4. Parties represented in relevant regional and international intergovernmental organizations, and financial and development institutions shall encourage these entities to provide financial assistance for developing country Parties and for Parties with economies in transition to assist them in meeting their obligations under the Convention, without limiting the rights of participation within these organizations.

5. The Parties agree that:

(a) to assist Parties in meeting their obligations under the Convention, all relevant potential and existing resources, financial, technical, or otherwise, both public and private that are available for tobacco control activities, should be mobilized and utilized for the benefit of all Parties, especially developing countries and countries with economies in transition;

(b) the Secretariat shall advise developing country Parties and Parties with economies in transition, upon request, on available sources of funding to facilitate the implementation of their obligations under the Convention;

(c) the Conference of the Parties in its first session shall review existing and potential sources and mechanisms of assistance based on a study conducted by the Secretariat and other relevant information, and consider their adequacy; and

(d) the results of this review shall be taken into account by the Conference of the Parties in determining the necessity to enhance existing mechanisms or to establish a voluntary global fund or other appropriate financial mechanisms to channel additional financial resources, as needed, to developing country Parties and Parties with

economies in transition to assist them in meeting the objectives of the Convention.

PART IX: SETTLEMENT OF DISPUTES

Article 27

Settlement of disputes

1. In the event of a dispute between two or more Parties concerning the interpretation or application of this Convention, the Parties concerned shall seek through diplomatic channels a settlement of the dispute through negotiation or any other peaceful means of their own choice, including good offices, mediation, or conciliation. Failure to reach agreement by good offices, mediation or conciliation shall not absolve parties to the dispute from the responsibility of continuing to seek to resolve it.
2. When ratifying, accepting, approving, formally confirming or acceding to the Convention, or at any time thereafter, a State or regional economic integration organization may declare in writing to the Depositary that, for a dispute not resolved in accordance with paragraph 1 of this Article, it accepts, as compulsory, ad hoc arbitration in accordance with procedures to be adopted by consensus by the Conference of the Parties.
3. The provisions of this Article shall apply with respect to any protocol as between the parties to the protocol, unless otherwise provided therein.

PART X: DEVELOPMENT OF THE CONVENTION

Article 28

Amendments to this Convention

1. Any Party may propose amendments to this Convention. Such amendments will be considered by the Conference of the Parties.
2. Amendments to the Convention shall be adopted by the Conference of the Parties. The text of any proposed amendment to the Convention shall be communicated to the Parties by the Secretariat at least six months before the session at which it is proposed for adoption. The Secretariat shall also communicate proposed amendments to the signatories of the Convention and, for information, to the Depositary.

3. The Parties shall make every effort to reach agreement by consensus on any proposed amendment to the Convention. If all efforts at consensus have been exhausted, and no agreement reached, the amendment shall as a last resort be adopted by a three-quarters majority vote of the Parties present and voting at the session. For purposes of this Article, Parties present and voting means Parties present and casting an affirmative or negative vote. Any adopted amendment shall be communicated by the Secretariat to the Depositary, who shall circulate it to all Parties for acceptance.

4. Instruments of acceptance in respect of an amendment shall be deposited with the Depositary. An amendment adopted in accordance with paragraph 3 of this Article shall enter into force for those Parties having accepted it on the ninetieth day after the date of receipt by the Depositary of an instrument of acceptance by at least two-thirds of the Parties to the Convention.

5. The amendment shall enter into force for any other Party on the ninetieth day after the date on which that Party deposits with the Depositary its instrument of acceptance of the said amendment.

Article 29

Adoption and amendment of annexes to this Convention

1. Annexes to this Convention and amendments thereto shall be proposed, adopted and shall enter into force in accordance with the procedure set forth in Article 28.

2. Annexes to the Convention shall form an integral part thereof and, unless otherwise expressly provided, a reference to the Convention constitutes at the same time a reference to any annexes thereto.

3. Annexes shall be restricted to lists, forms and any other descriptive material relating to procedural, scientific, technical or administrative matters.

PART XI: FINAL PROVISIONS

Article 30

Reservations

No reservations may be made to this Convention.

Article 31
Withdrawal

1. At any time after two years from the date on which this Convention has entered into force for a Party, that Party may withdraw from the Convention by giving written notification to the Depository.
2. Any such withdrawal shall take effect upon expiry of one year from the date of receipt by the Depository of the notification of withdrawal, or on such later date as may be specified in the notification of withdrawal.
3. Any Party that withdraws from the Convention shall be considered as also having withdrawn from any protocol to which it is a Party.

Article 32
Right to vote

1. Each Party to this Convention shall have one vote, except as provided for in paragraph 2 of this Article.
2. Regional economic integration organizations, in matters within their competence, shall exercise their right to vote with a number of votes equal to the number of their Member States that are Parties to the Convention. Such an organization shall not exercise its right to vote if any of its Member States exercises its right, and vice versa.

Article 33
Protocols

1. Any Party may propose protocols. Such proposals will be considered by the Conference of the Parties.
2. The Conference of the Parties may adopt protocols to this Convention. In adopting these protocols every effort shall be made to reach consensus. If all efforts at consensus have been exhausted, and no agreement reached, the protocol shall as a last resort be adopted by a three-quarters majority vote of the Parties present and voting at the session. For the purposes of this Article, Parties present and voting means Parties present and casting an affirmative or negative vote.
3. The text of any proposed protocol shall be communicated to the Parties by the Secretariat at least six months before the session at which it is proposed for adoption.

4. Only Parties to the Convention may be parties to a protocol.
5. Any protocol to the Convention shall be binding only on the parties to the protocol in question. Only Parties to a protocol may take decisions on matters exclusively relating to the protocol in question.
6. The requirements for entry into force of any protocol shall be established by that instrument.

Article 34
Signature

This Convention shall be open for signature by all Members of the World Health Organization and by any States that are not Members of the World Health Organization but are members of the United Nations and by regional economic integration organizations at the World Health Organization Headquarters in Geneva from 16 June 2003 to 22 June 2003, and thereafter at United Nations Headquarters in New York, from 30 June 2003 to 29 June 2004.

Article 35
Ratification, acceptance, approval, formal confirmation
or accession

1. This Convention shall be subject to ratification, acceptance, approval or accession by States and to formal confirmation or accession by regional economic integration organizations. It shall be open for accession from the day after the date on which the Convention is closed for signature. Instruments of ratification, acceptance, approval, formal confirmation or accession shall be deposited with the Depositary.
2. Any regional economic integration organization which becomes a Party to the Convention without any of its Member States being a Party shall be bound by all the obligations under the Convention. In the case of those organizations, one or more of whose Member States is a Party to the Convention, the organization and its Member States shall decide on their respective responsibilities for the performance of their obligations under the Convention. In such cases, the organization and the Member States shall not be entitled to exercise rights under the Convention concurrently.
3. Regional economic integration organizations shall, in their instruments relating to formal confirmation or in their instruments of accession, declare the extent of their competence with respect to the matters governed by the

Convention. These organizations shall also inform the Depositary, who shall in turn inform the Parties, of any substantial modification in the extent of their competence.

Article 36
Entry into force

1. This Convention shall enter into force on the ninetieth day following the date of deposit of the fortieth instrument of ratification, acceptance, approval, formal confirmation or accession with the Depositary.
2. For each State that ratifies, accepts or approves the Convention or accedes thereto after the conditions set out in paragraph 1 of this Article for entry into force have been fulfilled, the Convention shall enter into force on the ninetieth day following the date of deposit of its instrument of ratification, acceptance, approval or accession.
3. For each regional economic integration organization depositing an instrument of formal confirmation or an instrument of accession after the conditions set out in paragraph 1 of this Article for entry into force have been fulfilled, the Convention shall enter into force on the ninetieth day following the date of its depositing of the instrument of formal confirmation or of accession.
4. For the purposes of this Article, any instrument deposited by a regional economic integration organization shall not be counted as additional to those deposited by States Members of the organization.

Article 37
Depositary

The Secretary-General of the United Nations shall be the Depositary of this Convention and amendments thereto and of protocols and annexes adopted in accordance with Articles 28, 29 and 33.

Article 38
Authentic texts

The original of this Convention, of which the Arabic, Chinese, English, French, Russian and Spanish texts are equally authentic, shall be deposited with the Secretary-General of the United Nations.

IN WITNESS WHEREOF the undersigned, being duly authorized to that effect, have signed this Convention.

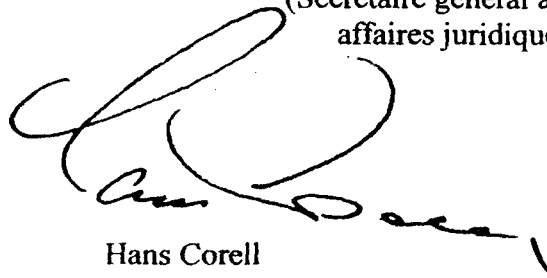
DONE at GENEVA this twenty-first day of May two thousand and three.

I hereby certify that the foregoing text is a true copy in the Arabic, Chinese, English, French, Russian and Spanish languages of the WHO Framework Convention on Tobacco Control done at Geneva on 21 May 2003.

Je certifie que le texte qui précède est la copie conforme en anglais, arabe, chinois, espagnol et français et russe de la Convention-cadre de l'OMS pour la lutte antitabac fait à Genève le 21 mai 2003.

For the Secretary-General,
The Legal Counsel
(Under-Secretary-General
for Legal Affairs)

Pour le Secrétaire général,
Le Conseiller juridique
(Secrétaire général adjoint aux
affaires juridiques)

A handwritten signature in black ink, appearing to read 'Hans Corell', is written over the French text. The signature is fluid and cursive, with a large loop at the beginning and a long tail extending to the right.

Hans Corell

United Nations, New York
13 June 2003

Organisation des Nations Unies
New York, le 13 juin 2003